

Exhibit P - Deposition of Rule  
30(b)(6) Witness Lt. Adrian  
Beas (LVMPD's SWAT  
policies and procedures)

30(b)(6) for Las Vegas Metropolitan Police Department  
Adrian Beas Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

Page 171

## 1 CERTIFICATE OF COURT REPORTER

2 STATE OF NEVADA )  
3 ) ss:  
4 COUNTY OF CLARK )

5 I, Heidi K. Konsten, Certified Court Reporter  
6 licensed by the State of Nevada, do hereby certify  
7 that I reported the deposition of ADRIAN BEAS,  
8 commencing on March 28, 2025, at 9:04 a.m.

9 Prior to being deposed, the witness was duly  
10 sworn by me to testify to the truth. I thereafter  
11 transcribed my said stenographic notes via  
12 computer-aided transcription into written form,  
13 and that the transcript is a complete, true and  
14 accurate transcription and that a request was not  
15 made for a review of the transcript.

16 I further certify that I am not a relative,  
17 employee or independent contractor of counsel or  
18 any party involved in the proceeding, nor a person  
19 financially interested in the proceeding, nor do I  
20 have any other relationship that may reasonably  
21 cause my impartiality to be questioned.

22 IN WITNESS WHEREOF, I have set my hand in my  
23 office in the County of Clark, State of Nevada,  
24 this April 1, 2025.

25 Heidi K. Konsten  
Heidi K. Konsten, RPR, CCR No. 845

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 \* \* \* \* \*

4 LATIA ALEXANDER, )  
 individually as heir of )  
 5 ISAIAH T. WILLIAMS and in )  
 her capacity as special )  
 6 administrator of the Estate )  
 of ISAIAH T. WILLIAMS, )

7 )  
 Plaintiff, )

8 )

9 vs. )

10 LAS VEGAS METROPOLITAN )

11 POLICE DEPARTMENT, a )

political subdivision of )

12 the State of Nevada; KERRY )

KUBLA, in his individual )

13 capacity, et al., )

Defendants. )

14 )

15

16 VIDEOTAPED DEPOSITION OF

17 ADRIAN BEAS

18 30(b)(6) for Las Vegas Metropolitan

19 Police Department

20 Taken on March 28, 2025

21 at 9:04 a.m.

22 By a Certified Court Reporter

23 Las Vegas, Nevada

24

25 Stenographically reported by:

Heidi K. Konsten, NV CCR 845, RPR

JOB NO. 60239 - Firm No. 116F

2

1 Videotaped deposition of ADRIAN BEAS,  
2 stenographically taken at 400 South Seventh Street,  
3 3rd Floor, Las Vegas, Nevada, on Friday, March 28,  
4 2025, at 9:04 a.m., before Heidi K. Konsten,  
5 Certified Court Reporter in and for the State of  
6 Nevada.  
7  
8 APPEARANCES OF COUNSEL  
9 For the Plaintiff:  
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24  
25 Also present:  
  
Vance Wharton, Videographer  
  
\* \* \* \* \*

3

1 INDEX  
2  
3 ADRIAN BEAS Page  
4 Examination by Mr. Breedren 5  
5 \* \* \* \* \*  
6  
7 EXHIBITS  
8 No. Description Page  
9 Exhibit 1 Notice of Deposition 11  
10 Exhibit 2 SWAT manual excerpt - 98  
11 Bates Numbers LVMPD  
12 001490 through LVMPD  
13 001491  
14 Exhibit 3 Commission on Peace 114  
15 Officer Standards and  
16 Training Performance  
17 Objective Reference  
18 Material - Bates Numbers  
19 Williams 000809 through  
20 Williams 000810  
21 Exhibit 4 Critical Incident Review 168  
22 Team report excerpts -  
23 Bates Numbers LVMPD  
24 004440 through LVMPD  
25 004443  
  
\* \* \* \* \*

4

1 LAS VEGAS, NEVADA  
2 Friday, March 28, 2025  
3 9:04 a.m.  
4 DEPOSITION OF ADRIAN BEAS  
5 \* \* \* \* \*  
6  
7 THE VIDEOGRAPHER: Today is  
8 March 28th, 2025. The time is approximately  
9 9:04 a.m. Your court reporter is Heidi Konsten,  
10 and I am your videographer, VN Wharton. We are  
11 here on behalf of Lexitas.  
12 The witness today is Lieutenant Adrian  
13 Beas as a 30(b)(6) designee for Las Vegas  
14 Metropolitan Police Department. And we are here  
15 in the case Latia Alexander, individually, as heir  
16 of Isaiah T. Williams and in her capacity as  
17 special administrator of the estate of Isaiah T.  
18 Williams, plaintiff, versus Las Vegas Metropolitan  
19 Police Department, a political subdivision of the  
20 State of Nevada, et al., defendants.  
21 Will counsel please state your  
22 appearances, and the court reporter will  
23 administer the oath.  
24 MR. BREEDEN: This is Attorney Adam  
25 Breedren on behalf of the plaintiff.

5

1 MR. ANDERSON: Craig Anderson on  
2 behalf of the defendants and the witness.  
3  
4 Whereupon,  
5 ADRIAN BEAS,  
6 was called as a witness, and having been first duly  
7 sworn to testify to the truth, was examined and  
8 testified as follows:  
9  
10 EXAMINATION  
11 BY MR. BREEDEN:  
12 Q Good morning, sir.  
13 Can you please state your name for the  
14 court reporter, and go ahead and spell your name  
15 as well.  
16 A It's Adrian Beas, A-D-R-I-A-N, B-E-A-S.  
17 Q Okay. And, sir, are you currently a  
18 lieutenant with the Las Vegas Metropolitan Police  
19 Department?  
20 A Yes, I am.  
21 Q Okay. My name is Adam Breedren, and I'm  
22 the attorney for Latia Alexander. She has filed a  
23 lawsuit against the Las Vegas Metropolitan Police  
24 Department and several of its SWAT officers  
25 following a fatal shooting of her son, which



<p>6</p> <p>1 occurred on January 10th of 2022.</p> <p>2 Do you understand the reason why you're</p> <p>3 here this morning is to give deposition testimony</p> <p>4 on behalf of the Las Vegas Metropolitan Police</p> <p>5 Department in that case?</p> <p>6 A Yes.</p> <p>7 Q Okay. Have you ever given a deposition</p> <p>8 before?</p> <p>9 A No.</p> <p>10 Q Okay. So given that it's your first</p> <p>11 time, there's several rules for the deposition, or</p> <p>12 we sometimes call them admonitions or -- or</p> <p>13 instructions, regarding how we're going to proceed</p> <p>14 today so we're on the same page.</p> <p>15 First of all, understand that the oath</p> <p>16 that was administered to you by the court reporter</p> <p>17 is the same oath that you would take in a court of</p> <p>18 law as if you were in front of a judge and a jury,</p> <p>19 and it obligates you to tell the truth today under</p> <p>20 penalty of perjury.</p> <p>21 Do you understand that?</p> <p>22 A Yes.</p> <p>23 Q Your deposition is being videotaped</p> <p>24 today, and that video may be played to the judge</p> <p>25 or the jury if this matter goes to trial.</p>	<p>8</p> <p>1 understand any of my questions, please ask me to</p> <p>2 repeat or rephrase them, and I'll be happy to do</p> <p>3 so for you.</p> <p>4 During today's deposition, you need to</p> <p>5 give an audible or verbal or out-loud response,</p> <p>6 such as a "Yes" or a "No," as opposed to shaking</p> <p>7 your head up and down or side to side or using</p> <p>8 slang terms such as "Uh-huh" or "Huh-uh" if you</p> <p>9 mean yes or no.</p> <p>10 The reason I ask you to do that is</p> <p>11 because those types of nonverbal responses or</p> <p>12 slang responses, they don't show up well, if at</p> <p>13 all, on the transcript. So during today's</p> <p>14 deposition, it's very common for people the first</p> <p>15 time they go through this process to say "Huh-uh"</p> <p>16 or they just shake their head. I might ask you,</p> <p>17 "Did you mean yes, or did you mean no?" because I</p> <p>18 have to have something stated out loud on the</p> <p>19 record for the court reporter.</p> <p>20 Do you understand that?</p> <p>21 A Yes, I do.</p> <p>22 Q Additionally, you've done an excellent</p> <p>23 job so far, but during today's deposition, as a</p> <p>24 general rule, we have to avoid speaking at the</p> <p>25 same time anyone else is speaking. We'll all</p>
<p>7</p> <p>1 Do you understand that?</p> <p>2 A Yes.</p> <p>3 Q Okay. The court reporter to my left and</p> <p>4 your right is taking down everything that's said</p> <p>5 during today's deposition, all of my questions and</p> <p>6 your answers and any other comments that are made</p> <p>7 in the room. After the deposition is completed,</p> <p>8 she will put all of those questions and answers in</p> <p>9 a booklet or transcript form. You'll actually</p> <p>10 have the right to review that transcript and make</p> <p>11 changes to your testimony if you wish.</p> <p>12 However, I would like to explain to you</p> <p>13 in advance that if you say one thing here today</p> <p>14 during your deposition and then later you try to</p> <p>15 change your testimony in a meaningful or</p> <p>16 substantive way, as opposed to just correcting a</p> <p>17 typographical error or something of that nature,</p> <p>18 that I would have the right to comment on the fact</p> <p>19 that you said one thing during today's deposition</p> <p>20 and then later you changed your testimony.</p> <p>21 Do you understand that?</p> <p>22 A Yes.</p> <p>23 Q It is very important for us to make a</p> <p>24 good record today, so there's several things I'll</p> <p>25 ask you to do for me. First of all, if you don't</p>	<p>9</p> <p>1 afford you the same courtesy. One of the reasons</p> <p>2 we have to do that is it is very difficult for the</p> <p>3 court reporter to accurately take down what two</p> <p>4 people are saying at the same time.</p> <p>5 So even if you believe you know the</p> <p>6 answer to my question before I've completely</p> <p>7 finished the sentence, please wait for me to</p> <p>8 completely finish speaking before you begin your</p> <p>9 response.</p> <p>10 Can you do that for me?</p> <p>11 A Yes.</p> <p>12 Q During today's deposition, your</p> <p>13 attorney, Mr. Anderson, may make an objection to</p> <p>14 one or more of my questions. I want to explain to</p> <p>15 you how objections work during the deposition</p> <p>16 process, because they work a little differently</p> <p>17 than what you may have seen on TV or in a</p> <p>18 courtroom.</p> <p>19 During a deposition, you can see we</p> <p>20 don't have a judge here to immediately rule on</p> <p>21 objections. So what we do during a deposition</p> <p>22 is -- if I ask a question and Mr. Anderson wants</p> <p>23 to make an objection for some reason, he will</p> <p>24 state so on the record, and then we will still</p> <p>25 look to you to give your response. And then,</p>

<p style="text-align: right;">10</p> <p>1 later, if a judge needs to go back and look at the</p> <p>2 transcript, he or she can do so and make a ruling</p> <p>3 at that time based on the transcript whether your</p> <p>4 response is admissible.</p> <p>5 So I explain that to you because it</p> <p>6 confuses many witnesses the first time. Sometimes</p> <p>7 they think they hear an objection so they're not</p> <p>8 supposed to respond, but generally the opposite is</p> <p>9 true. If I ask you some question that is truly</p> <p>10 protected by a privilege or there's some other</p> <p>11 reason Mr. Anderson thinks you are not legally</p> <p>12 obligated to respond to it, I'm sure he'll make</p> <p>13 that very clear.</p> <p>14 Otherwise, you can essentially ignore</p> <p>15 the objections and just let Mr. Anderson state</p> <p>16 them for the record, and then we'll -- we'll</p> <p>17 continue with your response.</p> <p>18 Do you understand how objections will</p> <p>19 work today?</p> <p>20 A Yes.</p> <p>21 Q Okay. Have you consumed any alcoholic</p> <p>22 beverages in the last 24 hours?</p> <p>23 A No.</p> <p>24 Q Have you taken any drugs -- that would</p> <p>25 include prescription medications -- within the</p>	<p style="text-align: right;">12</p> <p>1 BY MR. BREEDEN:</p> <p>2 Q And on page four of this exhibit,</p> <p>3 there's a list of topics, and I've highlighted the</p> <p>4 ones in yellow where you've been designated to</p> <p>5 testify here today. So that was a long</p> <p>6 introduction to this question.</p> <p>7 But my question is: Prior to today's</p> <p>8 deposition, have you reviewed this list of topics?</p> <p>9 A I have.</p> <p>10 Q And you are aware of the topics you've</p> <p>11 been designated to testify today?</p> <p>12 A Yes.</p> <p>13 Q Okay. What, if anything, did you do to</p> <p>14 prepare for the deposition? And when I ask that,</p> <p>15 I mean, what documents have you reviewed? What</p> <p>16 witnesses or defendants have you spoken to?</p> <p>17 Explain to me what you've done.</p> <p>18 A Well, first, Craig Anderson notified me</p> <p>19 that I was going to do this deposition, so I've</p> <p>20 met with Craig Anderson on two personal times at</p> <p>21 his office, probably an hour or two each time.</p> <p>22 We've had numerous phone calls, texting back and</p> <p>23 forth regarding this case.</p> <p>24 I've reviewed the CIRT report reference</p> <p>25 Mr. Williams and this case. I've reviewed</p>
<p style="text-align: right;">11</p> <p>1 last 48 hours?</p> <p>2 A No.</p> <p>3 Q Do you have any sort of medical</p> <p>4 condition -- an extreme example would be dementia</p> <p>5 or Alzheimer's disease -- that may affect your</p> <p>6 memory or your ability to testify here today?</p> <p>7 A I do not.</p> <p>8 Q Okay. Your deposition or this</p> <p>9 deposition was set today pursuant to Federal Rule</p> <p>10 of Civil Procedure 30(b)(6), and that's a special</p> <p>11 rule that says if we have sued a legal entity,</p> <p>12 like the Las Vegas Metropolitan Police Department,</p> <p>13 we can serve a list of topics, and then it's up</p> <p>14 for the department to present a witness who is</p> <p>15 educated about and can speak about those topics in</p> <p>16 a manner that binds the police department.</p> <p>17 So, to be clear on this transcript as we</p> <p>18 begin, I did not specifically request that you</p> <p>19 come here today to testify. You were -- you're</p> <p>20 being presented on behalf of the police</p> <p>21 department. So what we've done is we've taken the</p> <p>22 deposition notice and we've marked it as</p> <p>23 Exhibit 1. I will pass that to you.</p> <p>24 (Exhibit 1 was identified.)</p> <p>25</p>	<p style="text-align: right;">13</p> <p>1 depositions from Lieutenant O'Daniel,</p> <p>2 Officer Bertuccini, Sergeant Russ Backman, and</p> <p>3 Detective Roth. I've read the search warrants</p> <p>4 related to the Nellis apartment, as well as Jimmy</p> <p>5 Durante, the residence, and the IAP associated to</p> <p>6 this.</p> <p>7 I also reviewed reports regarding</p> <p>8 Jasmine King case; reviewed past SWAT manuals</p> <p>9 back -- dated back in 2021 -- prior to 2021, the</p> <p>10 incident, the SWAT manuals as far as -- and as</p> <p>11 well as the current SWAT manual; reviewed policy</p> <p>12 on search warrants as it lies today in our policy.</p> <p>13 Q Other than --</p> <p>14 MR. ANDERSON: Body-worn camera.</p> <p>15 THE WITNESS: Oh, I'm sorry. Reviewed</p> <p>16 body-worn camera from multiple angles,</p> <p>17 Sergeant Russ Backman, Officer Bertuccini, a</p> <p>18 view -- a couple of different angles, but I</p> <p>19 reviewed body-worn camera of that incident.</p> <p>20 BY MR. BREEDEN:</p> <p>21 Q Okay. In preparing for the deposition,</p> <p>22 did you review any documents or find any documents</p> <p>23 that you believe had not already been produced in</p> <p>24 this case?</p> <p>25 A I did not.</p>



14

1 Q Okay. And --

2 A Can -- can I ask for a tissue?

3 MR. ANDERSON: Yeah, tissue.

4 THE WITNESS: I'm sorry.

5 MR. BREEDEN: Sure. Well, let's go

6 off the record briefly.

7 THE VIDEOGRAPHER: The time is

8 9:15 a.m. We are off the record.

9 (Whereupon, a recess was taken.)

10 THE VIDEOGRAPHER: The time is

11 9:17 a.m. We are on the record.

12 BY MR. BREEDEN:

13 Q Okay. So, Lieutenant Beas, we're back

14 on the record now.

15 Other than reviewing other depositions

16 that were taken in this case, did you have any

17 personal conversation with any of the Metro police

18 officers who have been sued individually?

19 A I have. Previous to this, back when I

20 took over the SWAT team, I did have conversations

21 regarding this incident. It's just something you

22 learn from. So I've spoken with

23 Officer Bertuccini, Officer Jake Warner, Russ

24 Backman. Those are the three main -- Sergeant

25 Alex Gonzales, Chris Latham. Those are about the

15

1 main ones I can remember that were involved in

2 that incident. Kerry Kubla -- I mean, obviously.

3 They all work for me.

4 Q Okay. And is it fair to say, though,

5 that you had no personal involvement in the

6 planning or execution of this SWAT action on

7 the -- on January 10 of 2022 at the time that it

8 happened?

9 A I did not.

10 Q Okay. Were you on Las Vegas' SWAT team

11 or in the SWAT department at all at that time?

12 A I was not.

13 Q Okay. So -- and we're going to get into

14 your employment here in just a second or two,

15 so --

16 Have you reviewed any expert reports

17 that have been produced in this litigation?

18 A Other than those reports that I just

19 stated, no other reports.

20 Q Okay. And, I mean, just to clarify,

21 there's been police practices experts. We have

22 produced reports by a Greg Gilbertson, as well as

23 a former Metro SWAT member whose -- whose name,

24 for some reason, I can't come up with right now.

25 MR. ANDERSON: Tom Milton.

16

1 BY MR. BREEDEN:

2 Q Tom Milton.

3 Have you reviewed those reports?

4 A I did not.

5 Q Okay. Do you know Mr. Milton, by the

6 way?

7 A I do.

8 Q Okay. Did you know him personally from

9 his time on the police force?

10 A I knew him personally from the police

11 force, just from interactions on the department.

12 Q Okay. Was he -- would you call him a

13 friend or a personal acquaintance of yours?

14 A I would say a work acquaintance.

15 Q Okay. And then there's been a defense

16 police practices expert also produced. And,

17 again, for some reason, I can't come up with that

18 gentleman's name.

19 MR. ANDERSON: Spencer Fomby.

20 BY MR. BREEDEN:

21 Q Spencer Fomby.

22 Have you reviewed Mr. Fomby's report?

23 A I did not.

24 Q Have you spoken to Mr. Fomby?

25 A I don't know who he is.

17

1 Q Okay. Well, let's -- let's talk a

2 little bit about your background and experience

3 with Las Vegas Metro.

4 First of all, what is your current title

5 or rank?

6 A My current rank is a lieutenant on the

7 Las Vegas Metropolitan Police Department, and I'm

8 currently assigned to the SWAT section as the

9 tactical commander.

10 Q And are you essentially the second in

11 command at SWAT?

12 A Yes. I have a captain who is above me

13 who is the SWAT commander.

14 Q Okay. And who is the current captain?

15 A Hector Cintron, C-I-N-T-R-O-N.

16 Q How long has Captain Cintron been the

17 SWAT captain?

18 A I believe he came on around October of

19 last year.

20 Q And how long have you been the -- would

21 you say it's the -- the tactical lieutenant?

22 A Tactical commander, yeah.

23 Q Tactical commander.

24 A Same -- same thing.

25 Q How long have you been the tactical

18

1 commander or lieutenant, then, at SWAT?

2 A I took over officially July 8th of 2023.

3 Q And so let's get a little bit of an idea

4 about your background then.

5 What's the extent of your education?

6 A I have an associate's degree at the

7 College of Southern Nevada in criminal justice.

8 Q What year did you obtain that degree?

9 A I believe it was 2003.

10 Q Have you lived in Clark County, Nevada,

11 your whole life?

12 A I have.

13 Q And when did you first join Las Vegas

14 Metro?

15 A I joined Las Vegas Metro on July 27th of

16 1998.

17 Q Have you been continuously employed with

18 Metro since 1998?

19 A I have.

20 Q And, you know, we'll just say as an

21 adult -- and I realize that's a little vague, but

22 as an adult, have you always worked as a police

23 officer, or have you held other positions?

24 A Prior to 1998, I joined the United

25 States Marine Corps in 1994 after graduating high

19

1 school. I served four years in the Marine Corps.

2 Q Okay. So I'm just trying to -- to get a

3 timeline here. It sounds like you graduated high

4 school. You went into the Marine Corps for four

5 years. After leaving the Marine Corps, you joined

6 Metro.

7 And then, apparently, while you were

8 employed by Metro, you were also getting a

9 criminal justice degree?

10 A Yes, I started College of Southern

11 Nevada as a -- already employed with Metro. In

12 between the United States Marine Corps, I worked

13 at the MGM as a security guard/EMT for two months

14 waiting to get hired on to Metro.

15 Q When you were in the Marines, were you

16 military police?

17 A I was a firefighter.

18 Q When you were first hired by Metro, what

19 department or what assignment did you receive?

20 A When I started Metro in 1998, after the

21 academy, after field training, I was in patrol. I

22 finished field training, and I was stationed at

23 Northeast Area Command as a patrol officer.

24 Q And so it might be easier just -- just

25 for you to explain it, but why don't you give me

20

1 an idea of your advancement through the department

2 up until the time that you became a lieutenant for

3 the SWAT team.

4 A Okay. Like I said, 1998, graduated the

5 academy in December, started field training, and

6 then I worked patrol officer. Became an FTO,

7 field training officer, at the Northwest Area

8 Command. In 2000 -- I believe it was '4, I became

9 a detective in the vice unit. I was a vice

10 detective. In 2007, I left the vice unit and went

11 to the surveillance section.

12 In 2008, November 1st, I was promoted to

13 sergeant and worked Bolden Area Command as a

14 graveyard sergeant. I believe in 2012, I went

15 back to the vice section as a sergeant. I moved

16 to the -- it was then called career criminal

17 repeat offenders program, which is now called

18 major violators section, as a sergeant in 2014.

19 A couple of years later, 2017, I went to

20 the narcotics section, where I worked the FBI Safe

21 Street gang task force. Stayed in narcotics until

22 I promoted in 2019 as a lieutenant and became a

23 watch commander in June of 2019. In February of

24 '20, I was moved to the counterterrorism section

25 as the lieutenant. In December of '22, I moved

21

1 to -- to the major violators section as a

2 lieutenant. And then in July of '23, I took over

3 as tactical commander of the SWAT team.

4 Q Who was the prior tactical commander for

5 SWAT that you took over for?

6 A His name was Lieutenant Joey Herring.

7 Q Is Lieutenant Herring still with the

8 force?

9 A He is -- he retired.

10 Q And then, to your knowledge, prior to

11 Lieutenant Herring, was it Lieutenant O'Daniel who

12 was the SWAT lieutenant tactical commander?

13 A Yes, she was.

14 Q Okay. And Lieutenant O'Daniel also

15 retired; right?

16 A Yes.

17 Q When did she retire?

18 A I believe December -- sometime late '22

19 or early '23. I believe Joey took over in

20 December of -- or January of '23.

21 Q Have you ever been sued personally or

22 individually as a result of your employment at

23 Las Vegas Metropolitan Police Department?

24 A I was taken to -- I don't know if it was

25 sued, but it was a diversity issue.



22

1 Q Have you ever had use-of-force  
2 complaints made against you?  
3 A No.  
4 Q Did you ever go on the SWAT missions  
5 prior to being promoted to tactical commander?  
6 A Starting in May of '23, I started to  
7 ride along with SWAT, shadowing Lieutenant Joey  
8 Herring. So I would go on search warrants and  
9 callouts, shadowing him as the tactical commander,  
10 but not as an operator.  
11 Q Would you do -- I mean, SWAT and major  
12 violators probably worked together on occasion.  
13 Would you go on SWAT as part of major  
14 violators?  
15 A Major violators, when -- sorry, when I  
16 was in major violators as a sergeant and as a  
17 lieutenant, we were mostly -- I won't say mostly,  
18 but we did all the time -- it was either a PC  
19 arrest or an arrest warrant for a subject, which  
20 is totally opposite of search warrants for the  
21 residence to search a place. But we would deal  
22 with SWAT frequently if a suspect or a subject  
23 would not leave their residence.  
24 Q Have you ever been one of the SWAT team  
25 members in the line, though, so to speak? In

23

1 other words, doing the entry?  
2 A No, I was never an operator.  
3 Q Okay. And just to talk a little bit  
4 about some of the individual defendants, you know  
5 Kerry Kubla; correct?  
6 A I do.  
7 Q Is he still on your SWAT team?  
8 A He is.  
9 Q Okay. Is he someone that you see  
10 frequently at work, then?  
11 A I work with Kerry Kubla, I believe,  
12 three of his four days.  
13 Q Okay. And then Officer Brice Clements,  
14 is he still on SWAT?  
15 A He is not.  
16 Q Okay. Why is he not on SWAT any longer?  
17 A I do not know. He left prior to myself  
18 getting up there.  
19 Q Is he still on the force?  
20 A Oh, I'm sorry. I think Brice promoted  
21 out of the SWAT.  
22 Q Okay. Do you know what department he's  
23 with, then?  
24 A He's in patrol. He's on a patrol squad.  
25 Q Okay. Is he somebody that you -- you

24

1 have spoken to in the past?  
2 A I've said hi to him a few times, and  
3 that's about the extent of my talk with him.  
4 Q But he's somebody, if he walked into  
5 this room, you would recognize him?  
6 A I would, yes.  
7 Q Okay. Alex Gonzales -- is  
8 Officer Gonzales still on SWAT?  
9 A Yeah, Alex promoted to sergeant, and he  
10 is now a team leader on the SWAT team.  
11 Q Okay. And so he's somebody that you see  
12 frequently and work with frequently at work?  
13 A Again, I work with him three days of his  
14 four days.  
15 Q Okay. Russell Backman.  
16 A Russell Backman retired a few months  
17 ago, and then Sergeant Alex Gonzales took his  
18 spot.  
19 Q Okay. And so Russell Backman is no  
20 longer with the force, but did he retire while he  
21 was on SWAT?  
22 A He did.  
23 Q Okay. So he was somebody, at least for  
24 a period of time, you worked with as well?  
25 A Exactly.

25

1 Q Okay. And he's somebody, if he walked  
2 in here, you would recognize him?  
3 A I've known Sergeant Russ Backman since  
4 we were in vice, detectives together, so I've  
5 known him for a long time.  
6 Q Is that more than 15 years, then?  
7 A Yes.  
8 Q Okay. James Rothenburg -- is  
9 Officer Rothenburg still on SWAT?  
10 A He is not.  
11 Q Okay. When did he depart SWAT?  
12 A I couldn't tell you. I know he promoted  
13 as a sergeant and went back to patrol.  
14 Q Okay. So he's a patrol sergeant now?  
15 A I do not know where he's located --  
16 where his duties are now, but ...  
17 Q Okay. And then Officer Bertuccini -- is  
18 he still on SWAT?  
19 A Yes, he is.  
20 Q Okay. And is he somebody, then, that --  
21 that you work with frequently at Metro?  
22 A Yes.  
23 Q Okay. And then Lieutenant O'Daniel, my  
24 understanding is she's retired now; correct?  
25 A She is.

26

1 Q Is she somebody, when she worked for the  
2 force, you knew her?  
3 A Yes.  
4 Q Okay. So if she walked in here today,  
5 you would recognize her as well?  
6 A Yes.  
7 Q Okay. Have you had any discussions with  
8 her specifically about what happened with either  
9 the Jasmine King or the Isaiah Williams matters?  
10 A No, not at all.  
11 Q Okay. To your knowledge, have any of  
12 those individual defendants been disciplined or  
13 received any sort of retraining as a result of  
14 what happened in Mr. Williams' matter?  
15 A Through the reports that I've read, I do  
16 not believe any of them were disciplined  
17 internally for this incident.  
18 Q And, in fact, as you just testified,  
19 several of them have been promoted, despite the  
20 incident; right?  
21 A Yes.  
22 Q As part of your job with Las Vegas  
23 Metro, have you testified in court before?  
24 A Yes, I have.  
25 Q How many times?

27

1 A In front of a jury, at least two times.  
2 Not more than three or four.  
3 Q Okay. And those were instances where  
4 you or Metro was not being sued; those are in  
5 association with a criminal investigation?  
6 A It was.  
7 Q Okay. It seems like you remembered two  
8 occasions pretty clearly.  
9 Can you describe those to me?  
10 A The first occasion I remember was my  
11 first time. It was reference a -- a subject that  
12 had connected his ex-girlfriend at her home, took  
13 her in a vehicle, and it became a vehicle pursuit  
14 that went out to Indian Springs and ended in an  
15 accident where they rolled over, and he was  
16 arrested for kidnapping, and I was the arresting  
17 officer.  
18 Q And what's the second occasion you're  
19 thinking of?  
20 A The second occasion is when I was a vice  
21 detective and we arrested a subject for pandering.  
22 Q Have you ever testified in court  
23 relating to a SWAT action?  
24 A No.  
25 Q What involvement do you have with

28

1 training SWAT officers?  
2 A As the tactical commander, I oversee  
3 everything from day to day that happens in the --  
4 the SWAT section. As part of the section, we have  
5 a -- a squad that's called a training section, and  
6 it's led by a sergeant, Sergeant Brett Brosnahan,  
7 and three operators.  
8 These three operators are senior  
9 officers that have shown the ability -- not only  
10 the experience and knowledge, but the ability to  
11 also teach. And they are responsible for all  
12 training to all of our operators. And this is --  
13 includes SWAT school, weekly training, all of the  
14 lesson plans to make sure they're current,  
15 teaching lesson plans, and coming up with new  
16 training based on new things that we see  
17 throughout the year.  
18 Q And do you personally teach any of those  
19 classes?  
20 A I do not.  
21 Q Okay. That's left to Sergeant Brosnahan  
22 and others?  
23 A And his team, yes.  
24 Q Okay. Do you take part, though, in  
25 changing or updating the instruction?

29

1 A Yes. Since I have been tactical  
2 commander, we have created a leadership team.  
3 It's composed of the SWAT commander, myself, all  
4 four team leaders, all four assistant team  
5 leaders, and the training section.  
6 If we see that there's a new way of  
7 doing things, a new tactic, a new tool, a new  
8 piece of equipment, we talk about it as a group,  
9 and it's -- through a committee, we either agree  
10 to adopt that new tactic, buy that new piece of  
11 equipment, or buy that new piece of -- a vehicle  
12 or something like that.  
13 So myself and the SWAT commander have  
14 the final say in if we're going to move that  
15 direction.  
16 Q So part of what you do as the tactical  
17 commander for SWAT, though, is to review the  
18 instruction to make sure it's adequate; right?  
19 A Yes.  
20 Q Okay. When we talk about standards and  
21 training for SWAT, would you agree with me that  
22 there are department standards, then there are  
23 state or national standards, and then there's  
24 constitutional standards? Do you agree with that?  
25 A As in tactics or in, like, laws?



30

1 Q Just -- yeah, generally speaking,  
2 regarding policies for SWAT and how SWAT actions  
3 are to be conducted.  
4 A I could agree with you.  
5 Q Okay. And you agree with me that all  
6 Metro's policies need to comply with the  
7 United States Constitution; correct?  
8 A Correct.  
9 Q And they need to comply with the Nevada  
10 state constitution as well; right?  
11 A Correct.  
12 Q They need to comply with Nevada state  
13 law as well; right?  
14 A Correct.  
15 Q And then there are some national or --  
16 or state standards.  
17 Are you familiar with Nevada POST?  
18 A I am.  
19 Q Okay. Would you consider that to be an  
20 organization that is reliable in the standards  
21 that it's published?  
22 A It oversees our certification as law  
23 enforcement officers, so yes.  
24 Q Are Metro's department policies required  
25 to comply with POST?

31

1 MR. ANDERSON: Objection. Form.  
2 Go ahead and answer.  
3 THE WITNESS: I believe -- I don't --  
4 I couldn't answer. I don't know if they have to  
5 require to -- everything POST says, because POST  
6 is a standard of law enforcement training and  
7 standardization, so I do not meet the -- I don't  
8 know if they meet the threshold for state law or  
9 U.S. law.  
10 BY MR. BREEDEN:  
11 Q Yeah. So let -- so let me phrase it  
12 this way.  
13 Is it your understanding that Nevada  
14 POST, if they publish some sort of a training, is  
15 that a recommendation or a requirement that Metro  
16 follow that?  
17 A A requirement.  
18 Q Okay.  
19 A As far as training hours.  
20 Q So you think it's -- so you think it's  
21 mandatory?  
22 A I don't believe everything that POST  
23 publishes is mandatory, but it's a -- it's a  
24 threshold.  
25 Q Okay. Well, what -- what do you mean

32

1 by -- by "threshold"?  
2 A Like --  
3 Q Do you mean that it -- that the  
4 department's policies should at least meet POST's  
5 policies?  
6 A At least meet the POST policies, yes.  
7 Q Okay. So I would say, then, that what  
8 you're describing is that Metro's policies, in  
9 your opinion, should be at least as -- they should  
10 require at least as much as Nevada POST, and they  
11 can even exceed that. Is that what you're saying?  
12 MR. ANDERSON: Objection. Form.  
13 Go ahead.  
14 THE WITNESS: Yes.  
15 BY MR. BREEDEN:  
16 Q Okay. And then let's see here.  
17 So in terms of constitutional standards,  
18 does Metro provide its SWAT officers any  
19 instruction on particular court cases and  
20 requirements from those decisions?  
21 A In search warrant planning and tactical  
22 planning, we do cover some case law that regards  
23 to search warrants and U.S. law and -- and state  
24 law.  
25 Q Okay. We're going to talk about some

33

1 specific cases a little later in your deposition,  
2 but I want to ask you -- you know, you're the SWAT  
3 tactical commander -- are you familiar with the  
4 United States Supreme Court case of Wilson v.  
5 Arkansas?  
6 A I am.  
7 Q Okay. And so can you generally describe  
8 what that case discusses?  
9 A The -- it's a case that kind of cements  
10 the knock and announce -- the announcement of the  
11 police to the property, the defendant, from a  
12 common law to actually a case law -- to give them  
13 a reasonable amount of time to submit, given  
14 the -- their -- their authority and position of  
15 the officers before the search warrant.  
16 Q Is there anything -- well, it's before  
17 force can be used to enter when serving a warrant;  
18 right?  
19 A Correct.  
20 Q Okay. And that case actually says that  
21 that is a constitutional requirement under the  
22 Fourth Amendment; right?  
23 A Yes.  
24 Q Okay. There's some decisions applying  
25 Wilson v. Arkansas from the Ninth Circuit Court of



<p style="text-align: right;">34</p> <p>1 Appeals. One of them is United States v. 2 Granville. 3 Are you familiar with that case? 4 A Not offhand. 5 Q Okay. There's another case called 6 United States v. Banks. 7 Are you familiar with that case? 8 A I am, because it's a -- it's a North 9 Las Vegas case and -- yes, I'm familiar with that. 10 Q Okay. And what's your understanding, 11 just to describe it to a layperson, what that case 12 discusses? 13 A Again, it goes to announcing your 14 authority and purpose prior to making forcible 15 entry. In U.S. v. Banks, they went on to describe 16 timing of reasonableness for that specific case. 17 Q Okay. In the training that's provided 18 to SWAT officers, is Wilson v. Arkansas ever 19 specifically mentioned or cited in the training? 20 A Yes, and it's also in our policy manual. 21 Q Okay. And is United States v. Granville 22 specifically mentioned? 23 A I don't recall. 24 Q Is United States v. Banks specifically 25 mentioned?</p>	<p style="text-align: right;">36</p> <p>1 failed, because -- just because it's not 2 documented, I can't -- I can't speak to the fact 3 that it wasn't informally talked about, because it 4 is a local case and I'm sure the -- the tactical 5 commander -- well, they would know that and talk 6 with that. But I just -- in my research, I could 7 not find that in previous formal documents. 8 BY MR. BREEDEN: 9 Q Okay. There's no evidence in writing 10 that there was instruction given; correct? 11 A Correct. 12 Q Okay. And would you agree with me, 13 then, that if it -- in the verbal instruction as 14 well, there was no instruction on those cases, 15 that would be a failure of training? 16 MR. ANDERSON: Objection. Form. 17 THE WITNESS: I don't know if it would 18 be a complete failure of training, as -- as long 19 as they're touching parts that are -- that are 20 critical to the search warrant with U.S. and 21 Nevada state law. 22 BY MR. BREEDEN: 23 Q Okay. I'm going to skip around a little 24 bit -- well, look, I don't want to dwell on this 25 subject.</p>
<p style="text-align: right;">35</p> <p>1 A I don't believe so prior to this 2 incident. It has been recently, though. 3 Q Okay. So prior to January 10 of 2022, 4 to your knowledge, training that Metro gave SWAT 5 did not specifically include United States v. 6 Banks? 7 A I couldn't be 100 percent, but the 8 documents that I've been reviewing prior to this 9 case, I can't find U.S./Banks. 10 Q Okay. And just generally speaking, 11 would you agree with me that for Metro to 12 effectively train its SWAT officers on knock and 13 announce, it should be training them on the major 14 court decisions that they have to comply with? 15 MR. ANDERSON: Objection. Form. 16 Go ahead and answer. 17 THE WITNESS: They should be trained 18 on everything that's associated with knock and 19 announce and search warrants, correct. 20 BY MR. BREEDEN: 21 Q And would you agree with me that, at 22 least in that respect, prior to the incident in 23 this case, Metro failed in that job? 24 MR. ANDERSON: Objection. Form. 25 THE WITNESS: I can't say that they</p>	<p style="text-align: right;">37</p> <p>1 But as you sit here today, you can't 2 tell me any of that training occurred, can you? 3 A I do know that they discuss in the 4 search warrant planning and tactical planning case 5 law. I can't find documentation of every single 6 incidence, what they were trained of, but there is 7 lesson plans that cite certain cases, Wilson v. 8 Arkansas being one of them. I'm sorry, the -- 9 Q Yeah, but -- but you yourself aren't 10 even familiar with United States v. Granville, and 11 you can't find anything in the training materials 12 that specifically mentions United States v. Banks 13 either; correct? 14 A Prior to this incident, no. 15 Q Prior to this incident. Okay. 16 I'm going to skip around in the topics 17 just a little bit here. 18 First of all, when we talk about 19 warrants and how warrants are to be served, we 20 have no-knock warrants and then other warrants, 21 which I guess you could call regular warrants, or 22 knock-and-announce warrants. 23 What -- what term would you use for 24 that? 25 A For other warrants that are not no-knock</p>

<p style="text-align: right;">38</p> <p>1 warrants?</p> <p>2 Q Correct.</p> <p>3 A Well, just to go back a little bit,</p> <p>4 they're all search warrants in a sense. They're a</p> <p>5 search warrant signed by a judge, approved by a</p> <p>6 district attorney, written by a detective or an</p> <p>7 officer. When we get those search warrants, if</p> <p>8 they specifically requested a no-knock search</p> <p>9 warrant, that's just a tactic that the SWAT team</p> <p>10 uses in serving those search warrants.</p> <p>11 So I would say a no-knock search warrant</p> <p>12 is -- it's different in a case, because it gives</p> <p>13 us authority to not knock and announce our</p> <p>14 presence prior to making forcible entry. But</p> <p>15 those would be tactics in serving a search</p> <p>16 warrant. So if you're asking specifically about</p> <p>17 tactics, we do have different tactical options in</p> <p>18 serving search warrants.</p> <p>19 Q Okay. So one of those tactics is a</p> <p>20 no-knock warrant; correct?</p> <p>21 A Correct.</p> <p>22 Q And you agree that the warrant in this</p> <p>23 particular case was not a no-knock warrant.</p> <p>24 A It was not a no-knock warrant, correct.</p> <p>25 Q Okay. So it was a warrant that had to</p>	<p style="text-align: right;">40</p> <p>1 inside the residence to come to the door,</p> <p>2 ascertain the officers' identity and purpose, and</p> <p>3 allow them entry?</p> <p>4 A SWAT officers should wait a reasonable</p> <p>5 amount of time, yes.</p> <p>6 Q Okay. And officers are required to</p> <p>7 comply with knock and announce before forcefully</p> <p>8 entering a residence; correct?</p> <p>9 A They have to comply with the knock and</p> <p>10 announce law by reasonably giving them</p> <p>11 announcements, reasonably giving them time before</p> <p>12 the forcible entry, yes.</p> <p>13 Q Okay. Based on the court decisions,</p> <p>14 what is the rationale behind requiring the knock</p> <p>15 and announce rule?</p> <p>16 MR. ANDERSON: Objection. Form.</p> <p>17 Go ahead and answer.</p> <p>18 THE WITNESS: It goes back to common</p> <p>19 law of just announcing our presence prior to</p> <p>20 making forcible entry so they know we have a</p> <p>21 lawful search warrant.</p> <p>22 BY MR. BREEDEN:</p> <p>23 Q Okay. Does Metro consider one of the</p> <p>24 reasons behind that rule to reduce the risk of</p> <p>25 harm to both the officers and the occupants inside</p>
<p style="text-align: right;">39</p> <p>1 be served according to the knock and announce</p> <p>2 rule?</p> <p>3 A Correct.</p> <p>4 Q Okay. And so what does the knock and</p> <p>5 announce rule actually require of officers? Like,</p> <p>6 if you'll just regurgitate for me the -- the legal</p> <p>7 definition of it.</p> <p>8 A Again, prior to making forcible entry,</p> <p>9 the SWAT officers or officers in general have to</p> <p>10 announce their presence and authority and purpose</p> <p>11 to the occupants in that dwelling, and they have</p> <p>12 to fail to surrender prior to making forcible</p> <p>13 entry.</p> <p>14 Q Okay. Do you agree with me that one of</p> <p>15 the requirements of the knock and announce rule is</p> <p>16 to knock?</p> <p>17 A I do not agree with you on that.</p> <p>18 Q Do you agree one of the requirements is</p> <p>19 that the police announce their presence and</p> <p>20 purpose -- purpose meaning, for example, to serve</p> <p>21 a search warrant?</p> <p>22 A Yes.</p> <p>23 Q And then do you agree with me that one</p> <p>24 of the requirements of knock and announce is that</p> <p>25 Metro wait a reasonable amount of time for persons</p>	<p style="text-align: right;">41</p> <p>1 the residence when the warrant is served?</p> <p>2 A Those are two main factors, and the</p> <p>3 third would be the citizens around there.</p> <p>4 Q Okay. Are there certain factors -- you</p> <p>5 know, when we talk about a reasonable amount of</p> <p>6 time for officers to wait under the knock and</p> <p>7 announce rule, are there certain factors that</p> <p>8 affect what the officer should consider to be</p> <p>9 reasonable?</p> <p>10 A Oh, there's several factors. It could</p> <p>11 fluctuate your reasonableness of time.</p> <p>12 Q Can you explain those factors to me?</p> <p>13 A Size of the -- the structure; the area</p> <p>14 of where it's presented, if it's a tight apartment</p> <p>15 complex, townhomes, also if it's in a rural area;</p> <p>16 subjects inside, if you know they could be armed</p> <p>17 or violent; proximity to citizens; the ability to</p> <p>18 contain the structure; belief that evidence could</p> <p>19 be destroyed. Those are -- those of some of the</p> <p>20 factors.</p> <p>21 Q Okay. And I don't think -- there's one</p> <p>22 that I don't think you mentioned, which is the</p> <p>23 time of day that the warrant is served.</p> <p>24 A Oh.</p> <p>25 Q Do you --</p>



<p style="text-align: right;">42</p> <p>1 A Time of day could affect reasonableness</p> <p>2 of time.</p> <p>3 Q Okay. You agree with that as well?</p> <p>4 A Yes.</p> <p>5 Q Okay. And does Metro agree that knock</p> <p>6 and announce is required by the Fourth Amendment</p> <p>7 to the United States Constitution?</p> <p>8 A Is a requirement by the U.S.</p> <p>9 Constitution?</p> <p>10 Q Yes.</p> <p>11 A Correct, yes.</p> <p>12 Q And then are you familiar with NRS</p> <p>13 Section 179.055?</p> <p>14 A I am. That's the NRS that governs</p> <p>15 search warrants and the service of search</p> <p>16 warrants.</p> <p>17 Q And so does that Nevada state law also</p> <p>18 incorporate the knock and announce rule?</p> <p>19 A It does.</p> <p>20 Q Okay. And, in fact, it requires -- I'll</p> <p>21 just read it to you. It says, quote, "The officer</p> <p>22 may break open any outer or inner door or window</p> <p>23 of a house or any part of the house or anything</p> <p>24 therein to execute the warrant if, after notice of</p> <p>25 authority and purpose, the officer is refused</p>	<p style="text-align: right;">44</p> <p>1 to -- what was the exact --</p> <p>2 Q It would be the officer's refused</p> <p>3 admittance.</p> <p>4 A Refused admittance. The actual verbiage</p> <p>5 of refused admittance.</p> <p>6 Q Okay. And in Metro's position, what is</p> <p>7 necessary to establish that the officer has been</p> <p>8 refused admittance?</p> <p>9 A Refused admittance could be many</p> <p>10 factors. It could be a suspect looking out a</p> <p>11 window and not opening the door during the</p> <p>12 announcements. It could be you hearing noises</p> <p>13 inside that you know -- you hear movements. Or it</p> <p>14 could simply just be nobody is at the door,</p> <p>15 opening the door, submitting to your request of --</p> <p>16 Q Well, if it just meant nobody was at the</p> <p>17 door, then that refusal of admittance requirement</p> <p>18 wouldn't mean anything; right? That would --</p> <p>19 under that construction, Metro could just burst</p> <p>20 through any door where somebody wasn't standing</p> <p>21 right there to -- to open it. So it must mean</p> <p>22 something more than that.</p> <p>23 A I believe you still have to give a</p> <p>24 reasonable amount of announcements, because there</p> <p>25 could clearly not be anybody home during the</p>
<p style="text-align: right;">43</p> <p>1 admittance," end quote.</p> <p>2 So Nevada state law actually uses the</p> <p>3 phrase that officers must be "refused admittance."</p> <p>4 Do you understand that?</p> <p>5 A I do.</p> <p>6 Q Okay. And do you believe that</p> <p>7 requirement under state law, the refusal of</p> <p>8 admittance, do you believe that is essentially the</p> <p>9 same as the Fourth Amendment's knock and announce</p> <p>10 rule, or do you believe that that is a -- is a</p> <p>11 greater protection?</p> <p>12 MR. ANDERSON: Objection. Form.</p> <p>13 Go ahead and answer.</p> <p>14 THE WITNESS: It's essentially the</p> <p>15 same, but they just structure it and word it</p> <p>16 different, the -- or the submitting.</p> <p>17 BY MR. BREEDEN:</p> <p>18 Q Okay. So it's Metro's position that</p> <p>19 there's no practical difference between the state</p> <p>20 law and the federal knock and announce rule?</p> <p>21 A The state law is more restrictive than</p> <p>22 the -- the U.S. law.</p> <p>23 Q How is it more restrictive?</p> <p>24 A But putting those words in there of</p> <p>25 actually submitting -- or, I'm sorry, failure</p>	<p style="text-align: right;">45</p> <p>1 service of the search warrant and then no door</p> <p>2 open, but equal to be somebody could be inside</p> <p>3 fortifying their position or becoming armed or</p> <p>4 destroying evidence and not opening the door or</p> <p>5 looking out a window.</p> <p>6 Q When we talk about SWAT tactics, what is</p> <p>7 a CET?</p> <p>8 A CET is a controlled entry tactic.</p> <p>9 Q And so what -- what does that mean?</p> <p>10 A That's essentially -- it's a type of</p> <p>11 service, a tactic during a search warrant. It's a</p> <p>12 dynamic search warrant. It's where they get</p> <p>13 information. Again, it has to fit the criteria</p> <p>14 based on size, suspects, crime.</p> <p>15 There's numerous factors that -- if the</p> <p>16 CET tactic is approved to use. They establish</p> <p>17 containment. They establish the announcing of the</p> <p>18 search warrant prior to them making forcible entry</p> <p>19 if that's needed. And once forcibly -- forcibly</p> <p>20 entering or a door is opened, an entryway is</p> <p>21 opened, they flood that structure, and they take</p> <p>22 it room by room to overwhelm that structure to</p> <p>23 make it safe for the service of the search</p> <p>24 warrant.</p> <p>25 Q The very concept behind a CET entry is</p>



<p style="text-align: right;">46</p> <p>1 that SWAT is supposed to use surprise and</p> <p>2 overwhelming force in entering the structure;</p> <p>3 correct?</p> <p>4 A Speed, surprise, and overwhelming</p> <p>5 action, yes.</p> <p>6 Q And so given that CET requires speed,</p> <p>7 surprise, and overwhelming action, whereas the</p> <p>8 knock and announce rule requires that officers</p> <p>9 wait a reasonable amount of time after they've</p> <p>10 announced their presence for somebody to come to</p> <p>11 the door and allow them entry, does Metro consider</p> <p>12 CET to be in conflict with the knock and announce</p> <p>13 rule?</p> <p>14 A After this incident, they did see that</p> <p>15 there was a conflict in the language of the CET</p> <p>16 based on the reasonableness of time.</p> <p>17 Q Okay. And so it took this incident for</p> <p>18 Metro to realize that?</p> <p>19 A I don't think it was just this incident.</p> <p>20 It was various incidents throughout the U.S.</p> <p>21 during that time period, very high profile cases</p> <p>22 with SWAT and search warrants. There was a new --</p> <p>23 I guess a law expert that was hired by Las Vegas</p> <p>24 Metropolitan Police Department that agreed that it</p> <p>25 was in conflict and made recommendations, as well</p>	<p style="text-align: right;">48</p> <p>1 officers, and/or the suspects that we deal with.</p> <p>2 And at this case, they took a look at,</p> <p>3 based on recommendations by CIRT and Anthony</p> <p>4 Bandiero -- I can't -- I don't know if I'm saying</p> <p>5 his name right -- to change the tactic based on</p> <p>6 the language that we're using, the speed,</p> <p>7 surprise, and overwhelming action, to make that a</p> <p>8 no-knock search warrant.</p> <p>9 BY MR. BREEDEN:</p> <p>10 Q Yeah, so CET should only be used on a</p> <p>11 no-knock warrant; is that correct?</p> <p>12 MR. ANDERSON: Objection. Form.</p> <p>13 Are you talking about Fourth Amendment</p> <p>14 or policy?</p> <p>15 MR. BREEDEN: Well, we can break it</p> <p>16 down.</p> <p>17 BY MR. BREEDEN:</p> <p>18 Q So under department policy, is it true</p> <p>19 that CET should only be used on a no-knock</p> <p>20 warrant?</p> <p>21 A As it currently sits today, we actually</p> <p>22 took the -- we call it a dynamic search warrant,</p> <p>23 but it's essentially the same as a CET. It can</p> <p>24 only be used if we have a no-knock search warrant,</p> <p>25 and that's based on police policy, our</p>
<p style="text-align: right;">47</p> <p>1 as CIRT recommendations. The new sheriff, as well</p> <p>2 as the new director of SWAT, changed that</p> <p>3 language.</p> <p>4 Q Okay. But it wasn't because the knock</p> <p>5 and announce rule or how it was defined changed.</p> <p>6 It's just that Metro had a policy in place, and</p> <p>7 then, as a result of this incident, it realized</p> <p>8 it's -- the CET policy was not in compliance with</p> <p>9 knock and announce; correct?</p> <p>10 MR. ANDERSON: Objection. Form.</p> <p>11 THE WITNESS: Yeah, that CET was in</p> <p>12 place for 20-plus years. It was a tried and true</p> <p>13 method of a tactical that -- it was a national</p> <p>14 standard through National Tactical Officers</p> <p>15 Association, through numerous SWAT teams that used</p> <p>16 it on a daily basis, and Las Vegas Metropolitan</p> <p>17 Police Department used it thousands of times.</p> <p>18 And, yes, this incident, as well as</p> <p>19 other incidents that the Metropolitan Police</p> <p>20 Department was involved in, they took a look at</p> <p>21 it: Is there a better way that we can do things?</p> <p>22 And just like anything in policing, they want to</p> <p>23 take a look. It doesn't mean it's a violation of</p> <p>24 any law. It's just could we do something better</p> <p>25 to protect the citizens of Las Vegas, the</p>	<p style="text-align: right;">49</p> <p>1 department's policy, not on case law.</p> <p>2 Q And so the next question, then, is: Is</p> <p>3 it the department's position that under the Fourth</p> <p>4 Amendment, CET entry as it was being used by Metro</p> <p>5 conflicted with the knock and announce rule?</p> <p>6 MR. ANDERSON: Objection. Form.</p> <p>7 Go ahead and answer.</p> <p>8 THE WITNESS: I think they could not</p> <p>9 come to a full agreement. The -- the CET still</p> <p>10 complied with the knock and announce rule as far</p> <p>11 as service of the search warrant. The tactic,</p> <p>12 again, was used for 20-plus years.</p> <p>13 After reviewing this incident, they</p> <p>14 started looking into national trends, national</p> <p>15 SWAT teams changing their tactics. Hundreds of</p> <p>16 SWAT teams have changed their tactics going away</p> <p>17 from the CET or dynamic search warrants to a more</p> <p>18 what we would call "surround and call out" or a</p> <p>19 modified CET.</p> <p>20 When that consultant said that the</p> <p>21 language of speed, surprise, and overwhelming</p> <p>22 action conflicted with giving reasonable</p> <p>23 announcements, the department took that and asked</p> <p>24 us to change it. But it took, I would say, at</p> <p>25 least a year after that CIRT report to -- to</p>

<p style="text-align: right;">50</p> <p>1 finally make that change, and it was through a new</p> <p>2 director, a new sheriff, and a new tactical</p> <p>3 commander that it changed.</p> <p>4 BY MR. BREEDEN:</p> <p>5 Q Okay. So just to sort of summarize</p> <p>6 here, after this incident, there was an</p> <p>7 investigation of what occurred and whether there</p> <p>8 was a failure in policy; correct?</p> <p>9 A Correct.</p> <p>10 Q Specifically as it pertained to CET</p> <p>11 entry and whether CET entry complied with state</p> <p>12 and federal knock and announce requirements;</p> <p>13 correct?</p> <p>14 A Correct.</p> <p>15 Q There was a legal consultant who was of</p> <p>16 the opinion that it did not; correct?</p> <p>17 A He stated that the language used in that</p> <p>18 policy conflicted with the -- the knock and</p> <p>19 announce reasonableness of time.</p> <p>20 Q And then the critical incident review</p> <p>21 team, or CIRT, came to the same conclusion;</p> <p>22 correct?</p> <p>23 A Yes, but the basis of it is -- is the</p> <p>24 actual language of speed, surprise, and</p> <p>25 overwhelming action. It's not the tactic itself.</p>	<p style="text-align: right;">52</p> <p>1 A SACO, SACO, surround and call out.</p> <p>2 Q Okay. And so what does that mean, and</p> <p>3 how is it different from a CET?</p> <p>4 A A SACO is, again, another tactic used in</p> <p>5 service of a search warrant. If -- if a -- a</p> <p>6 tactic of CET is not authorized or doesn't fit,</p> <p>7 based on some of the criteria I spoke about</p> <p>8 earlier about the size of the property, the</p> <p>9 suspects, the crime, what we're going after, if we</p> <p>10 can contain that to protect the officers, the</p> <p>11 citizens, and the occupants, and we can safely</p> <p>12 contain that 360 -- we call one, two, three, and</p> <p>13 four sides -- we can contain all four sides safely</p> <p>14 without any regards to possibly escape or going</p> <p>15 into another residence.</p> <p>16 Simply a surround and call out is just</p> <p>17 what it kind of says, is we surround it, contain</p> <p>18 it, and then we start our announcements once it's</p> <p>19 contained and surrounded.</p> <p>20 Q So you're going to surround the area</p> <p>21 that is the subject of the warrant, and then</p> <p>22 you're going to make an announcement that says</p> <p>23 something like "Las Vegas Metropolitan Police.</p> <p>24 Search warrant. Please exit the residence."</p> <p>25 You know, how does it go?</p>
<p style="text-align: right;">51</p> <p>1 Q Okay. Well, speed, surprise, and</p> <p>2 overwhelming action was used to enter the</p> <p>3 apartment where Mr. Williams was on January 10th</p> <p>4 of 2022; correct?</p> <p>5 A Correct, the CET was used.</p> <p>6 Q Okay. And then the CIRT findings were</p> <p>7 also reviewed by the tactical review board or the</p> <p>8 TRB; correct?</p> <p>9 A Correct.</p> <p>10 Q And TRB agreed with CIRT's findings;</p> <p>11 correct?</p> <p>12 A Correct.</p> <p>13 Q Okay. And so is Metro today taking a</p> <p>14 position that, for some reason, the tactical</p> <p>15 review board and the CIRT review and the CIRT team</p> <p>16 were incorrect in their conclusions?</p> <p>17 MR. ANDERSON: Objection. Form.</p> <p>18 THE WITNESS: What we agreed upon,</p> <p>19 that the CIRT recommendations that keeping the</p> <p>20 language of speed, surprise, and overwhelming</p> <p>21 action, that tactic would be a no-knock search</p> <p>22 warrant.</p> <p>23 BY MR. BREEDEN:</p> <p>24 Q In the SWAT world, what is a SACO</p> <p>25 technique?</p>	<p style="text-align: right;">53</p> <p>1 A It's essentially that. "Las Vegas</p> <p>2 Metropolitan Police Department SWAT team. We have</p> <p>3 a search warrant for resident A, B, C. Please</p> <p>4 come out with your hands up." It -- there --</p> <p>5 there is no clear magical words or dedicated</p> <p>6 lines, but that's essentially what we want to say.</p> <p>7 We want to announce that we're the Las Vegas</p> <p>8 Metropolitan Police Department SWAT team, we have</p> <p>9 a search warrant, and what the residence is.</p> <p>10 Q Does Metro believe that surround and</p> <p>11 call out is in conflict with the knock and</p> <p>12 announce rule?</p> <p>13 A No.</p> <p>14 Q Can you describe for me all the reasons</p> <p>15 why surround and call out was not used for the</p> <p>16 January 10, 2022, incident regarding Mr. Williams</p> <p>17 and who made that decision as to why surround and</p> <p>18 call out would not be used?</p> <p>19 A Okay. That's a long question.</p> <p>20 But just to say, I have never been to</p> <p>21 that location. But through all my reading and</p> <p>22 reports and looking up that address and reading</p> <p>23 the reports of the -- the recommendation for the</p> <p>24 use of the CET, I would say, first, the ATL that</p> <p>25 day comes up with the plans to present to his team</p>



54

1 leader. The ATL will come up with options.  
 2 In speaking with now-Sergeant Jacob  
 3 Warner, he did have both options available. The  
 4 best option that he believed was the CET option  
 5 for the tactical option.  
 6 He presented that to both Garth Findley  
 7 and Russ Backman. I believe Garth Findley was on  
 8 vacation during the planning process of this, and  
 9 it was presented to Russ Backman, who then had to  
 10 get it approved through the tactical commander,  
 11 Melanie O'Daniel.  
 12 The reasoning for the CET and not to go  
 13 to the SACO on that, again, it was a corner  
 14 building apartment that it was tight to bring in  
 15 armored vehicles, our BearCats, large vehicles.  
 16 It had an AMPM -- I don't know the direction, but  
 17 I'm -- so I'm going to call it the sides that I  
 18 know. So the building, on the four side, would be  
 19 an AMPM with a small wall with some wrought iron  
 20 gates.  
 21 And then to the three side would be  
 22 Nellis, kind of an open main thoroughfare. And  
 23 they had a wraparound, a -- the apartment complex.  
 24 It was a small apartment. I believe it  
 25 was a one-bedroom, 750 square feet, if I'm

55

1 correct, somewhere around that range, with  
 2 suspects that are believed to be armed and have  
 3 violent priors.  
 4 Based on all of those factors and the  
 5 factors, they believed they could not contain it  
 6 by a surround and call out, given that -- the  
 7 closeness of neighboring apartments, the violence  
 8 associated with the crime being investigated, the  
 9 area itself in general, like I said, the open  
 10 areas of the AMPM and Nellis Boulevard, we  
 11 couldn't contain it fully, they -- they decided on  
 12 the surround and call out, which was ultimately  
 13 approved by the tactical commander, Melanie  
 14 O'Daniel.  
 15 Q I think you may have misspoken. I think  
 16 you meant -- you said they agreed on surround and  
 17 call out. I think you meant they agreed on CET.  
 18 A I'm sorry. I apologize. I -- they  
 19 agreed on the CET, controlled entry tactic, which  
 20 was approved by Melanie O'Daniel. That was  
 21 briefed to her by Russ Backman.  
 22 Q And I want to make a distinction  
 23 here.  
 24 Is it Metro's position that either CET  
 25 or SACO was feasible, but CET was preferred, or is

56

1 Metro saying SACO was not even feasible due to  
 2 certain factors; the only thing we could use here  
 3 was CET?  
 4 A Metro as a whole -- so if you're talking  
 5 about Metro, the department -- leaves it up to the  
 6 SWAT section, the tactical commander at the time,  
 7 to make a decision on what tactic to use. Again,  
 8 going back to everything that an ATL had seen on  
 9 the recon, had seen on the overlay of the maps,  
 10 based on his training, experience being up there,  
 11 being an ATL, believed that the CET was a better  
 12 tactic to use than the -- the SACO.  
 13 Q Okay. So it was -- either one in  
 14 Metro's position was available for use; it is just  
 15 that SWAT preferred CET; is that --  
 16 A I -- I believe that night, that  
 17 incident, it was overwhelmingly better for them to  
 18 use the CET than the SACO based on what they --  
 19 they believed they had at hand.  
 20 Q Okay. But was SACO a viable option?  
 21 A I wouldn't use viable. I would use an  
 22 option.  
 23 Q Okay. So it was at least an option, but  
 24 it was not used?  
 25 A Correct.

57

1 Q And are you aware that Nevada law  
 2 actually requires de-escalation techniques?  
 3 A Correct.  
 4 Q Okay. De-escalation is the concept that  
 5 law enforcement should be using the least  
 6 confrontational option; correct?  
 7 MR. ANDERSON: Objection. Form.  
 8 THE WITNESS: It's not always the  
 9 least amount, but in progressions, correct.  
 10 BY MR. BREEDEN:  
 11 Q Okay. Do you believe that use of the  
 12 CET is compliant with de-escalation?  
 13 A Yes.  
 14 Q Okay. So that would seem to be  
 15 contradictory, because CET is a much more  
 16 confrontational. It involves much more use of  
 17 force. It involves speed, surprise, and  
 18 overwhelming force, versus a SACO.  
 19 So why does Metro consider a CET over  
 20 SACO to be compliant with de-escalation?  
 21 A Number one would be safety factors, not  
 22 only for the occupant inside the residence, the  
 23 citizens and officers involved. And  
 24 de-escalation, again, it doesn't mean you always  
 25 have to use the lowest amount of force needed,



<p style="text-align: right;">58</p> <p>1 because sometimes you're presented with a higher  2 level of force and you have to come -- come back  3 with a -- a level of force that is equal to amount  4 to that.</p> <p>5 The CET, again, the speed, surprise, and  6 overwhelming action is based on taking that  7 structure, once inside, with speed, surprise, and  8 overwhelming actions to make sure that, again, the  9 officers are safe, the citizens are safe in the  10 residence next door, and the occupants.</p> <p>11 They verbalize their announcements to  12 give a reasonable amount of time. They use  13 different options prior to hitting the door and  14 verbalizing their announcements all the way  15 through. So, again, I believe it still complies  16 with de-escalation; it's just not the same as a  17 SACO. Two separate and distinguished options to  18 use during search warrants.</p> <p>19 Q Well, with due respect to you, you talk  20 about the CET being used for safety. Mr. Williams  21 was shot and killed during this.</p> <p>22 It certainly didn't ensure his safety,  23 did it?</p> <p>24 MR. ANDERSON: Objection. Form.  25 THE WITNESS: Again, Mr. Williams'</p>	<p style="text-align: right;">60</p> <p>1 wouldn't have been that same timing.</p> <p>2 BY MR. BREEDEN:</p> <p>3 Q Well, the -- the firefight that occurred  4 that resulted in Mr. Williams' death and -- and  5 you mentioned, you know, the times that he  6 fired -- Mr. Williams was shot 17 times by police.</p> <p>7 More likely than not, SACO would have  8 avoided that result --</p> <p>9 MR. ANDERSON: Objection.</p> <p>10 Speculation.</p> <p>11 BY MR. BREEDEN:</p> <p>12 Q -- do you agree?</p> <p>13 MR. ANDERSON: I'm sorry. Objection.</p> <p>14 Speculation.</p> <p>15 THE WITNESS: I agree to the point of  16 that incident. But, again, even in a SACO, we  17 have to make entry at a certain point, so I cannot  18 speculate on whether Mr. Williams would have been  19 inside there and still did that. But, yes, it  20 wouldn't have happened that way.</p> <p>21 BY MR. BREEDEN:</p> <p>22 Q I want to talk about noise flash  23 diversionary devices. Sometimes we've been  24 calling them NFDDs for short.</p> <p>25 Just explain generally what an NFDD is.</p>
<p style="text-align: right;">59</p> <p>1 death is tragic, and that's not what we plan to do  2 when we do the search warrants. Again, we  3 scrutinize our plans. They're briefed through an  4 ATL, through a team leader to a tactical  5 commander. They're briefed to the team. And none  6 of this -- again, we go through training, we go  7 through the planning phase of the briefing to make  8 it safe. That is beforehand.</p> <p>9 Once we made entry, again, tragically,  10 Mr. Williams decided to shoot 18 times at the  11 officers making entry, so ...</p> <p>12 BY MR. BREEDEN:</p> <p>13 Q Does Metro believe that if it had used a  14 SACO instead of a CET, that this incident more  15 likely than not would not have occurred?</p> <p>16 MR. ANDERSON: Objection.</p> <p>17 Speculation.</p> <p>18 Go ahead and answer.</p> <p>19 THE WITNESS: Obviously, a SACO being  20 different in -- in tactics, we would not have  21 Officer Kubla inside that quickly. I cannot say  22 if Mr. Williams would have come out and used that  23 firearm or once we made entry -- because,  24 eventually, we have to make entry on a SACO --  25 that it still wouldn't have occurred. But it</p>	<p style="text-align: right;">61</p> <p>1 A Again, a NFDD is a low-level use of  2 force option that we have. We use them  3 predominately on all of our callouts to barricades  4 or hostage situations and search warrants as a  5 means to cause -- they're a couple different  6 purposes.</p> <p>7 We can use them, again, to alert that we  8 are out there, to get their attention, that there  9 were police. They're used like -- they're a  10 diversionary device to disorientate, confuse  11 somebody inside a residence to give them that  12 split second pause so we have -- again, we have  13 overwhelming action -- we have the upper hand. It  14 takes away a -- a visual and auditory just for a  15 slight second, again, to get the upper hand.</p> <p>16 So it's more of a tactic to give that --  17 give us the tactical advantage. And when we  18 either have to go in on a hostage situation, a  19 search warrant, that's when we use them, on all  20 operations.</p> <p>21 Q So NFDDs come in different kinds, but  22 some of them create a very bright flash; correct?</p> <p>23 A We use -- today we use three different  24 kinds of NFDDs, correct.</p> <p>25 Q Okay. But -- and some of them create a</p>

62

1 bright flash; correct?

2 A Correct. I'm sorry. Yeah.

3 Q Have you ever been near one of those

4 when it -- when the flash went off?

5 A Yes.

6 Q How long would you say that that affects

7 your vision?

8 A Half a second. A second.

9 Q Half a second?

10 A If you're -- if you're looking directly

11 at it. I mean, we try not to -- we train not to

12 look at them. But it's a bright, quick flash of

13 light.

14 Q Well, what if you happen to be looking

15 directly at it when it went off, how long do you

16 think that would affect your vision?

17 MR. ANDERSON: Objection.

18 Speculation.

19 Go ahead.

20 THE WITNESS: A second or two.

21 BY MR. BREEDEN:

22 Q And then do you think it would be longer

23 if that went off in a dark environment? In other

24 words, the room is totally dark and it goes off,

25 versus it was the daytime and it went off.

63

1 Do you think it would affect a person's

2 vision longer if it was deployed in the dark?

3 A I think, naturally, any light that hits

4 your eyes at dark, it takes you a little longer to

5 refocus, so it doesn't matter how bright. I

6 mean -- but I would agree, I mean, essentially,

7 any light that gets flashed in your eyes at night

8 is -- takes you a second more to -- or I

9 wouldn't -- I wouldn't give a time, but it's

10 longer at night because you're not used to --

11 Q Your eyes have to adjust --

12 A Yes.

13 Q -- to the sudden brightness and darkness

14 change; right?

15 A Yes.

16 Q Okay. Some of them also give off a

17 pressure wave; right?

18 A They all do.

19 Q In other words, you can feel them.

20 Like, if you -- even if you were deaf

21 and blind, you would be able to feel them?

22 A There is some slight overpressure, yes,

23 caused by the detonation -- ignition of the

24 flash -- or the powder inside.

25 Q And then they're also designed to make

64

1 an audible noise; right?

2 A Yes.

3 Q And the noise resembled a gunshot?

4 A I would say that's true.

5 Q Okay. Would you say that laypeople

6 frequently confuse those noises with gunshots?

7 MR. ANDERSON: Objection. Form.

8 THE WITNESS: It could be -- it could

9 be similar to a gunshot noise.

10 BY MR. BREEDEN:

11 Q Okay. And, in fact, in this particular

12 case, I don't know if you saw it on the video, but

13 I believe it's Officer Rothenburg or

14 Officer Bertuccini who was even confused. He

15 heard the nine banger and wasn't sure whether that

16 was gunshots or the nine banger.

17 Were you aware of that?

18 A I'm aware through reading the reports

19 that there was some -- somebody -- like you said,

20 I believe it was Officer Rothenburg that said that

21 to Officer Bertuccini, and that was reference to

22 the nine bang NFDD, which is different than the 25

23 and the audible.

24 Q The -- the nine banger and the stun gun,

25 those are designed to mimic gunshots; right?

65

1 A The stun stick is not. The -- the nine

2 banger, due to its rhythmic cycle of the nine

3 bangs, was built to mimic fire, or some people

4 believe it's mimicking gunfire.

5 Q And --

6 A Because of the unusual rhythm of -- it's

7 not just bang, bang, bang, bang.

8 Q And that could have been designed in a

9 different way. For example, you could design a

10 device that sounded just like a police siren, and

11 that wouldn't resemble gunfire, and it would still

12 distract people.

13 But the noise flash diversionary devices

14 used for Mr. Williams' case, those resembled

15 gunfire; correct?

16 MR. ANDERSON: Objection. Form.

17 Go ahead and answer.

18 THE WITNESS: Again, they're --

19 they're a high-decibel diversionary device that we

20 use to divert their attention to wherever we're

21 directing our team to enter. We're not using it

22 to mimic gunfire.

23 BY MR. BREEDEN:

24 Q But it does sounds like gunfire; right?

25 A To laypeople, like you said, to some



<p style="text-align: right;">66</p> <p>1 people, it could.</p> <p>2 Q Okay. And is it Metro's position that</p> <p>3 deployment of NFDDs is inconsistent with the knock</p> <p>4 and announce rule?</p> <p>5 A No.</p> <p>6 Q Well, if the goal of knock and announce</p> <p>7 is to allow people a reasonable time to come to</p> <p>8 the door and ascertain that it's police officers</p> <p>9 and allow them entry, why would Metro, during the</p> <p>10 time that's supposed to be happening, deploy a</p> <p>11 noise flash diversionary device that sounds like</p> <p>12 the person is under gunfire?</p> <p>13 A So during the announcements, we won't</p> <p>14 deploy the NFDDs. But if we're going to use a</p> <p>15 tactical option of taking a window or opening a</p> <p>16 door, the teams may choose to use the NFDDs just</p> <p>17 as they're entailed to be used as -- to divert</p> <p>18 their attention away from what they're doing.</p> <p>19 So in this situation of the CET, they</p> <p>20 used those -- they used a 25 Def Tec on a stun</p> <p>21 stick to introduce it into a window and a</p> <p>22 CTS 9-Bang NFDD on the two side to divert their</p> <p>23 attention away from them using the manual breach</p> <p>24 on the front door.</p> <p>25 Q If the knock and announce rule requires</p>	<p style="text-align: right;">68</p> <p>1 second announcement, Bertuccini would insert the</p> <p>2 stun stick in the two-side window and initiate the</p> <p>3 25.</p> <p>4 Q There was no time preplanned into that</p> <p>5 between the announcement and insertion of the</p> <p>6 sun -- stun stick for Mr. Williams to get up and</p> <p>7 come to the door and allow officers inside, was</p> <p>8 there?</p> <p>9 A Still, there was six seconds for him to</p> <p>10 come to the front door to give him announcements</p> <p>11 or to give him announcements that we were going to</p> <p>12 come in and to surrender.</p> <p>13 Q So there were -- there were two types of</p> <p>14 NFDDs used here. There was what I would call a</p> <p>15 nine banger and what I would call a stun stick.</p> <p>16 Can you give me the exact make and model</p> <p>17 of those two different kinds?</p> <p>18 A So -- so the stun stick itself is just</p> <p>19 the implementation tool that we use to extend the</p> <p>20 Def Tec 25. And the Def Tec 25 is just -- it's a</p> <p>21 12-gram NFDD that we use. It's roughly around --</p> <p>22 when it -- when it goes off, it's about 175</p> <p>23 decibels, and we try to keep it -- the</p> <p>24 manufacturer says 5 feet away from an individual.</p> <p>25 The nine bang is a CTS 9-Bang. I</p>
<p style="text-align: right;">67</p> <p>1 giving Mr. Williams time to come to the front door</p> <p>2 and allow officers entry, why would they be</p> <p>3 deploying a nine banger across the apartment,</p> <p>4 outside a window, to distract his attention?</p> <p>5 A Again, at that time, after those set of</p> <p>6 announcements were given, the plan was to manually</p> <p>7 breach the door and then eventually make entry.</p> <p>8 If, prior to that announcements, the door would</p> <p>9 have been opened, they would not -- they would</p> <p>10 have delayed on making that NFDD. But at that</p> <p>11 time, they chose the -- the plan was after those</p> <p>12 announcements that were given after the insertion</p> <p>13 of the stun stick, they would begin to manually</p> <p>14 breach the front door and, once that door is open,</p> <p>15 make entry.</p> <p>16 The NFDDs were used to distract -- if</p> <p>17 somebody was still inside, to divert their</p> <p>18 attention from either arming themselves or trying</p> <p>19 to escape while the team is entering.</p> <p>20 Q Well, the plan of SWAT that morning was</p> <p>21 to deploy the -- to break out the rear window and</p> <p>22 to deploy the stun stick inside the apartment</p> <p>23 immediately on conclusion of the second</p> <p>24 announcement; correct?</p> <p>25 A I believe that was the plan. After the</p>	<p style="text-align: right;">69</p> <p>1 believe it's 43 grams, and it's got nine different</p> <p>2 audible sounds, like, that are about 180 decibels.</p> <p>3 Q And these are deployed -- you know,</p> <p>4 they're, like, little canisters, and they have a</p> <p>5 pin like a grenade that is removed before they --</p> <p>6 A Yeah, it's like a smoke canister that</p> <p>7 you would see. Again, it's got a pin and a -- and</p> <p>8 a spindle that comes off, and then it ignites</p> <p>9 within half a second.</p> <p>10 Q Who was the officer that actually</p> <p>11 deployed the nine banger that morning?</p> <p>12 A Officer Chris Latham.</p> <p>13 Q Who was the officer that deployed the</p> <p>14 stun stick and the charge in the stun stick?</p> <p>15 A Officer James Bertuccini.</p> <p>16 Q And so I know from prior testimony that</p> <p>17 Officer Bertuccini was to deploy the stun stick</p> <p>18 and its charge immediately after the second</p> <p>19 announcement.</p> <p>20 What was the plan as to when the nine</p> <p>21 banger was to be deployed?</p> <p>22 A I don't recall reading or getting</p> <p>23 briefed on the plan of the nine banger. But just</p> <p>24 knowing what I do now, based on our tactics, is</p> <p>25 the nine banger would go off the -- Bertuccini's</p>



<p style="text-align: right;">70</p> <p>1 ignition of his 25.</p> <p>2 Q So --</p> <p>3 A But they're in succession.</p> <p>4 Q Okay. So you believe, then, that</p> <p>5 Officer -- I think you said it was Latham.</p> <p>6 A Latham.</p> <p>7 Q -- that Officer Latham was to deploy the</p> <p>8 nine banger once the charge of the stun stick was</p> <p>9 deployed?</p> <p>10 A Again, I'm just basing it off what I do</p> <p>11 know now based on tactics and planning, because</p> <p>12 reviewing their plan, I seen the draw up of their</p> <p>13 plan prior to their brief, and next to Latham's</p> <p>14 name, it says nine bang.</p> <p>15 Q Okay. And -- but you believe, you know,</p> <p>16 to -- to Metro's knowledge, that the plan was to</p> <p>17 deploy the nine banger contemporaneously with the</p> <p>18 stun stick?</p> <p>19 A Yes, based on just tactics. Again, I</p> <p>20 wasn't at the briefing and I don't have a</p> <p>21 dictation of the briefing because they're not</p> <p>22 recorded and there's no -- I'm just basing it off</p> <p>23 of what I seen on the drawings of the plan. Based</p> <p>24 on tactics, it could be -- I believe it was</p> <p>25 used -- after the 25 was initiated, the nine</p>	<p style="text-align: right;">72</p> <p>1 the shots being fired.</p> <p>2 Q You --</p> <p>3 A I'm sorry, I couldn't -- I couldn't</p> <p>4 answer that.</p> <p>5 Q You agree with me that at least some of</p> <p>6 the deployments of the nine banger occurred before</p> <p>7 Mr. Williams fired his weapon?</p> <p>8 A Yes, I would agree with you on that.</p> <p>9 THE VIDEOGRAPHER: Mr. Beas, would you</p> <p>10 be so kind as to slide your water six inches.</p> <p>11 Thank you. Thank you.</p> <p>12 BY MR. BREEDEN:</p> <p>13 Q We're going to transition here into the</p> <p>14 department's policies regarding knock and announce</p> <p>15 and how it's supposed to be performed by officers,</p> <p>16 including SWAT.</p> <p>17 First of all, what are all of Metro's</p> <p>18 rules, policies, or procedures concerning knock</p> <p>19 and announce? Where -- where are they contained?</p> <p>20 A When you first start talking -- when you</p> <p>21 start talking about search warrants, you have</p> <p>22 search warrant and prep class, the classes you</p> <p>23 take to either -- to start authorizing -- or I'm</p> <p>24 sorry, not authorizing, being the affiant of a</p> <p>25 search warrant. You go through training that is</p>
<p style="text-align: right;">71</p> <p>1 banger would go off, or it would be a call by the</p> <p>2 ATL to say, set the nine bang off.</p> <p>3 But I don't recall, after watching the</p> <p>4 body-worn cameras, that there was an actual</p> <p>5 command to Chris Latham to throw the nine bang.</p> <p>6 So that's why I base it that it was briefed that</p> <p>7 he would throw it after the 25.</p> <p>8 Q The nine bang, that was deployed before</p> <p>9 Mr. Williams fired his weapon; correct?</p> <p>10 A I believe so. I -- I would have to</p> <p>11 review that video again, but I do believe so. It</p> <p>12 was after the 25, because there was no gunshots</p> <p>13 before the 25 or after the 25, and the nine bang</p> <p>14 went right after the 25.</p> <p>15 Q And then do you believe the nine bang</p> <p>16 was deployed before the officers took their first</p> <p>17 shots?</p> <p>18 A Yes.</p> <p>19 Q And do you believe the nine banger had</p> <p>20 fully deployed all nine shots before Mr. Williams</p> <p>21 fired any round from his weapon?</p> <p>22 A I don't recall based on when I watched</p> <p>23 the video. I would have to watch it again and</p> <p>24 just to hear it, if all of them successfully</p> <p>25 deployed, all nine, prior to entry and prior to</p>	<p style="text-align: right;">73</p> <p>1 given by Metro.</p> <p>2 And in that training, they do talk</p> <p>3 about, again, Wilson v. Arkansas and some other</p> <p>4 cases. And I haven't taken it for probably 15, 20</p> <p>5 years. But I -- I would say that a newer case</p> <p>6 would involve the Banks case and other associated</p> <p>7 cases with knock and announce.</p> <p>8 That's when you first start learning</p> <p>9 that, if not also in the academy, of case law,</p> <p>10 U.S. constitutional law, and Nevada state law.</p> <p>11 Prior to a couple of years ago, when SWAT took</p> <p>12 over all service of the search warrants, some</p> <p>13 sections were authorized to serve warrants. When</p> <p>14 those sections, like, narcotics, vice, gangs, were</p> <p>15 authorized to serve search warrants, they had to</p> <p>16 go to a tactical class, a service of search</p> <p>17 warrant tactical class. I believe it was a</p> <p>18 ten-hour case. And, again, those cases and</p> <p>19 those -- talking about announcements, the knock</p> <p>20 and announce, would be given in that class.</p> <p>21 Now the department has moved to just</p> <p>22 SWAT. So, again, when we brief every case, prior</p> <p>23 to briefing, we talk about how many announcements,</p> <p>24 how long it's going to take prior to us making</p> <p>25 entry. And we base that on the knock and announce</p>

<p style="text-align: right;">74</p> <p>1 state law and the U.S. Constitution.</p> <p>2 Q Has there ever been a written or</p> <p>3 unwritten policy about how many seconds or minutes</p> <p>4 officers are supposed to wait between the</p> <p>5 announcements and the use of force to enter the</p> <p>6 residence?</p> <p>7 A In my research, I could not find any</p> <p>8 written -- and, again, any unwritten. Because you</p> <p>9 have to take every case by its singular case,</p> <p>10 based on what is presented, what intel do you have</p> <p>11 on that particular search warrant.</p> <p>12 Because every search warrant is going to</p> <p>13 be different, so you base reasonableness off --</p> <p>14 the reasonableness of the time based on the</p> <p>15 factors that are presented to you. And in that</p> <p>16 case, again, I went through tons of factors that</p> <p>17 were presented to them that when -- moved them to</p> <p>18 the CET and moved them to what announcements or</p> <p>19 how many announcements they would give prior to</p> <p>20 making forcible entry.</p> <p>21 Q So there's been some reference in the</p> <p>22 CIRT report and I believe one of the other</p> <p>23 witnesses mentioned that at one time there was a</p> <p>24 ten-second rule.</p> <p>25 Are you aware of any time or any written</p>	<p style="text-align: right;">76</p> <p>1 Your testimony is that Metro has never</p> <p>2 had any formal or informal policies as to how many</p> <p>3 seconds or minutes officers are supposed to wait</p> <p>4 between announcements and using force to enter a</p> <p>5 residence under the knock and announce rule.</p> <p>6 Is that your testimony?</p> <p>7 A That there's a specific amount of time</p> <p>8 prior to making forcible entry?</p> <p>9 Q Yes.</p> <p>10 A No, there's nothing written. Again, it</p> <p>11 goes back to even when you look at all of the case</p> <p>12 laws, they're different. And it just -- we base</p> <p>13 it on you have to make the announcements of the</p> <p>14 authority and purpose and then give them a</p> <p>15 reasonable time to come and submit or --</p> <p>16 Based on the factors of the search</p> <p>17 warrant that you have, everything in totality is</p> <p>18 based -- bases your reasonableness of time. So</p> <p>19 every search warrant could be -- it will be</p> <p>20 different about that reasonableness of time.</p> <p>21 Q Well, in Metro's opinion, is one second</p> <p>22 ever reasonable?</p> <p>23 MR. ANDERSON: Objection. Form.</p> <p>24 THE WITNESS: Again, I -- I don't</p> <p>25 believe it would be one second, because then</p>
<p style="text-align: right;">75</p> <p>1 or unwritten policy or procedure that officers</p> <p>2 were to wait at least ten seconds before using</p> <p>3 force after the announcements?</p> <p>4 A I mean, there is -- there's different</p> <p>5 case law that talk about ten seconds or less than</p> <p>6 ten -- sorry, ten seconds. There's also case law</p> <p>7 that talks about 15 to 20 seconds. I could not</p> <p>8 look at anything in our SWAT manual, our SWAT</p> <p>9 lesson plans that specifically state the exact</p> <p>10 seconds that you would need. Everything goes back</p> <p>11 to the reasonableness based on your intel that you</p> <p>12 have on that search warrant.</p> <p>13 MR. BREEDEN: Okay. I noticed we've</p> <p>14 been going for about an hour and a half. Why</p> <p>15 don't we take a five-minute break.</p> <p>16 MR. ANDERSON: Yeah.</p> <p>17 THE VIDEOGRAPHER: The time is</p> <p>18 10:36 a.m. We are off the record.</p> <p>19 (Whereupon, a recess was taken.)</p> <p>20 THE VIDEOGRAPHER: The time is</p> <p>21 10:46 a.m. We are on the record.</p> <p>22 BY MR. BREEDEN:</p> <p>23 Q Okay. So I want to make sure that I</p> <p>24 understand your testimony on behalf of Metro</p> <p>25 regarding the last topic.</p>	<p style="text-align: right;">77</p> <p>1 you're -- you're touching into the -- almost the</p> <p>2 no-knocks. It could be one second if -- based on</p> <p>3 circumstances that you see once you are</p> <p>4 presented -- you get up there. If you see an</p> <p>5 obvious sign of escape or somebody -- that door is</p> <p>6 open and somebody visually sees you and your</p> <p>7 authority, and they're backing up into the</p> <p>8 residence. So it could be one second.</p> <p>9 But we wouldn't say, "Hey, we're only</p> <p>10 going to give one-second announcements and bang</p> <p>11 the door." I mean, everything is on the totality</p> <p>12 of the circumstances that are presented prior to</p> <p>13 the event, based on the details, and then, going</p> <p>14 up to the door, what you see.</p> <p>15 BY MR. BREEDEN:</p> <p>16 Q Well, I want to use the -- the following</p> <p>17 factual scenario, then, is that there are</p> <p>18 announcements and then there is literally nothing</p> <p>19 that is seen or heard inside the residence.</p> <p>20 Would you agree, on behalf of Metro,</p> <p>21 that waiting just one second between the</p> <p>22 announcement and the use of force when there's</p> <p>23 nothing seen or heard from inside the residence</p> <p>24 would be unreasonable?</p> <p>25 A It would be unreasonable if -- if you</p>



<p style="text-align: right;">78</p> <p>1 make that determination prior, saying we're giving  2 one second and then we're banging the door with --  3 without having anything presented, any factors.  4 And, again, it goes back to also what you are  5 going to -- projected to foresee inside there, if  6 you're going to expect to encounter armed  7 individuals or immediate destruction of evidence  8 or an escape.  9 So, I mean, I don't know where you're --  10 I mean, I don't know what you're asking about the  11 one second. We'd never factor in the one second  12 in training. It's all based on reasonableness --  13 based on state and U.S. laws, the reasonableness  14 of giving our announcements, and then based on is  15 it a CET tactic or is it a SACO tactic, what is  16 going to be the safest for, again, the officers,  17 the citizens around there, and the occupants.  18 Q Well -- well, let me start this. Let --  19 let me do it this way.  20 Most people would probably concede that  21 if officers knocked and announced and then waited  22 an hour and there were no activities or anything  23 inside the residence, that, at that point, it  24 would be reasonable for them to use force to  25 enter. Okay?</p>	<p style="text-align: right;">80</p> <p>1 So the ATL and TL take those factors in  2 based on what they're given and then what they're  3 given at the time of the service of the search  4 warrant.  5 Q Okay. Well, even before they got to the  6 site for Mr. Williams' case, they preplanned to  7 use force to break out the back window and deploy  8 the stun stick immediately after the second  9 announcement; correct?  10 A Correct.  11 Q So they planned for zero amount of time  12 or maybe as long as one second after the second  13 announcement before they would use force; correct?  14 MR. ANDERSON: Objection. Form.  15 THE WITNESS: The -- the plan for that  16 specific -- specific raid, for that CET was two  17 announcements, and then they would introduce the  18 stun stick to deploy the 25 distract, the NFDD,  19 prior to manually breaching the front door to make  20 entry.  21 BY MR. BREEDEN:  22 Q And do you agree that -- that that  23 morning, on January 10th of 2022, that the first  24 use of force to enter the premises was the  25 breaking of the window to insert the stun stick?</p>
<p style="text-align: right;">79</p> <p>1 So we -- somewhere between zero seconds  2 and one hour, there's an amount of time that Metro  3 should likely not consider to be reasonable under  4 any circumstances.  5 So what amount of time is that? Is it  6 one second? Two seconds? Three seconds?  7 MR. ANDERSON: Objection. Form.  8 Go ahead.  9 THE WITNESS: Again, it's based on the  10 totality of the incident. I mean, I can't -- you  11 can't put a time on every single search warrant.  12 You can't say, "This is going be to a one-second  13 search warrant or a five-second." Obviously,  14 going into the planning, one second would be  15 unreasonableness -- or unreasonable. But if  16 factors present themselves and you only have one  17 second, it could become reasonable.  18 BY MR. BREEDEN:  19 Q Okay.  20 A But there is no -- I'm sorry to cut you  21 off. But there is no formalized in writing how  22 many seconds you have to wait. We base it on case  23 law, state and U.S. law, and those cases that we  24 mentioned prior, that every one of them are  25 different in the timings of -- of announcements.</p>	<p style="text-align: right;">81</p> <p>1 A Yes, that's a low-level use of force and  2 intrusion into the apartment, was the introduction  3 of the stun stick and the 25.  4 Q And that occurred almost simultaneously,  5 as well, with the first use of the battering  6 device on the front door; correct?  7 MR. ANDERSON: Objection. Form.  8 THE WITNESS: I believe it was three  9 seconds after the -- that initiation of the 25 was  10 the first battering of the manual breach.  11 BY MR. BREEDEN:  12 Q Okay. Well, we'll look at the video --  13 A Yeah.  14 Q -- to see what it is. My recollection  15 is it was essentially at the same time, but the  16 video will show.  17 A Okay.  18 Q You keep saying in some of your  19 responses that, no, there's no -- there's no  20 policy in writing.  21 Is there any unwritten policy or  22 practice?  23 A Again, the unwritten would be the  24 planning phases of each particular search warrant  25 and what you have, the -- the structure, the size,</p>



82

1 the occupants, the citizens' safety. We take that  
 2 all in account and base it off of how long we want  
 3 to wait before we use a NFDD or before we want to  
 4 manually breach to make entry.  
 5 Q Okay. Well, let me -- because you  
 6 mentioned factors, and you say to -- totality of  
 7 the circumstances, and that's fair, because that's  
 8 legal phrasing from case law.  
 9 A Uh-huh.  
 10 Q Okay? But let's apply it specifically  
 11 to Mr. Williams' case, where officers are on both  
 12 sides of a small apartment at 5:00 in the morning  
 13 when it is likely people inside are asleep, and as  
 14 they make the announcements, they hear and see  
 15 nothing from inside the apartment.  
 16 What is Metro's position on how long is  
 17 reasonable for officers to wait until they begin  
 18 forcefully entering that apartment?  
 19 A Again, I don't believe the -- the  
 20 department has a position on giving the tactical  
 21 team a specific amount of time to wait. It -- it  
 22 depends on the tactic used. So that night, they  
 23 used the CET tactic.  
 24 At -- after the second announcement,  
 25 which I believe was six seconds, they introduced

83

1 the stun stick and then started manually breaching  
 2 the front door, still giving announcements as  
 3 they're doing that. And then when they finally  
 4 made entry into the threshold of the apartment,  
 5 still giving announcements.  
 6 They based their reasonableness amount  
 7 of time based on officer safety. They didn't want  
 8 to wait a long time out there because they knew  
 9 there was possibly -- could be armed suspects in  
 10 there, and the nature of the crime that they  
 11 were -- that the warrant was for.  
 12 Q Well, I don't want to argue with you,  
 13 but officers could sit behind a BearCat for hours  
 14 while they did a surround and call out; right?  
 15 There's no risk to the officers in doing that, is  
 16 there?  
 17 MR. ANDERSON: Objection. Form.  
 18 THE WITNESS: Even in a SACO, we  
 19 wouldn't wait an hour. But I agree with you,  
 20 there's -- the officers are afforded more cover  
 21 and concealment and safety behind an armored  
 22 BearCat. But that -- based on the plan, the  
 23 armored BearCat could not be used on the one side  
 24 by the front door on that incident.  
 25

84

1 BY MR. BREEDEN:  
 2 Q But several of the officers actually on  
 3 the ground when this happened had ballistic  
 4 shields as well; right?  
 5 A Yes. I believe a ballistic shield was  
 6 used by Officer Rothenburg on the two-side window  
 7 where the stun stick was used, and I'm sure they  
 8 had one up -- I believe they did have one up front  
 9 in front of the door.  
 10 Again, those ballistic shields are a  
 11 safety factor that we use. They provide minimal  
 12 coverage. They don't -- those are pistol-rated  
 13 shields. They're not as safe as a BearCat, and  
 14 they don't provide the whole team with coverage.  
 15 Q Metro agrees that its own CIRT review,  
 16 which was agreed by the Tactical Review Board,  
 17 found that officers had only waited six seconds  
 18 between the announcement and use of force to enter  
 19 the apartment.  
 20 Do you -- do you agree?  
 21 A That was the timing of the -- the stun  
 22 stick, yes.  
 23 Q Okay. And plaintiff actually disputes  
 24 that number of seconds, the six seconds figure.  
 25 We think it's less. Ultimately, a jury may have

85

1 to look at it and determine.  
 2 But even the six seconds, CIRT and TRB  
 3 both determined that that was not a long enough  
 4 amount of time to comply with the knock and  
 5 announce rule.  
 6 Does Metro acknowledge that?  
 7 MR. ANDERSON: Objection. Form.  
 8 Go ahead.  
 9 THE WITNESS: CIRT had their  
 10 recommendations. I believe they said, based on  
 11 Anthony's recommendation, that it wasn't long  
 12 enough, but SMEs in there still conflicted with if  
 13 that was reasonableness or not, the timing for the  
 14 announcements.  
 15 BY MR. BREEDEN:  
 16 Q But TRB also reviewed that conclusion  
 17 and upheld it; correct?  
 18 A I believe so, yes.  
 19 Q And TRB is formed solely of people who  
 20 are Metro employees, as opposed to outside  
 21 consultants; correct?  
 22 A The TRB, I believe they don't have any  
 23 outside. I think it's just the use-of-force  
 24 board.  
 25 Q And TRB unanimously sustained that

<p style="text-align: right;">86</p> <p>1 finding, didn't they?</p> <p>2 A I would have to relook at the TRB, but</p> <p>3 I -- if you're saying that's on the record, then I</p> <p>4 agree with you.</p> <p>5 Q Is Metro in this litigation now going to</p> <p>6 dispute the findings of CIRT and TRB that SWAT did</p> <p>7 not allow a reasonable amount of time to comply</p> <p>8 with the knock and announce rule?</p> <p>9 MR. ANDERSON: Objection. Form.</p> <p>10 THE WITNESS: The findings by the CIRT</p> <p>11 review board and the Tactical Review Board were</p> <p>12 based on department policy and if they found it</p> <p>13 reasonableness of six seconds, given those</p> <p>14 factors. They ultimately decided that the SWAT</p> <p>15 six-second announcements was not reasonable based</p> <p>16 on that incident, but it did not -- again, there's</p> <p>17 factors when you're talking about department</p> <p>18 policy, state policy, and U.S. law.</p> <p>19 At the time of the incident, the SWAT</p> <p>20 operators, the ATLS, the team leader, and then</p> <p>21 ultimately the tactical commander, who was not out</p> <p>22 there, agreed that the two announcements would --</p> <p>23 equated to the six seconds was adequate enough.</p> <p>24 BY MR. BREEDEN:</p> <p>25 Q Okay. I want to make sure that I</p>	<p style="text-align: right;">88</p> <p>1 disputing that conclusion, or do they stand by</p> <p>2 that earlier conclusion?</p> <p>3 A They're not disputing the findings of</p> <p>4 the CIRT review or the Tactical Review Board.</p> <p>5 Again, I think when you're talking about</p> <p>6 reasonableness of -- of time, there's many factors</p> <p>7 that go into it. And at the time, that SWAT team</p> <p>8 that conducted that raid on that mission believed</p> <p>9 that they were within state and U.S. law to use</p> <p>10 the six seconds prior to introducing the stun</p> <p>11 stick.</p> <p>12 Q Okay. And does Metro now acknowledge</p> <p>13 that that was incorrect and that was an</p> <p>14 unreasonable amount of time?</p> <p>15 A The findings were that, based on that</p> <p>16 incident, it was an unreasonable amount of time.</p> <p>17 That's what the CIRT and Tactical Review Board had</p> <p>18 stated.</p> <p>19 Q And -- and that is Metro's position?</p> <p>20 A Ultimately, it's Metro's position based</p> <p>21 on those reports.</p> <p>22 Q Okay. Prior to this incident in January</p> <p>23 of 2022, Metro's official policies allowed a CET</p> <p>24 to be used for knock and announce warrants;</p> <p>25 correct?</p>
<p style="text-align: right;">87</p> <p>1 understand your testimony.</p> <p>2 Are you saying Metro is now taking a</p> <p>3 position in this litigation, now it -- that it's</p> <p>4 been sued, that CIRT and TRB got it wrong?</p> <p>5 MR. ANDERSON: Objection. Form.</p> <p>6 THE WITNESS: I don't want to say they</p> <p>7 got it wrong, but CIRT can come up with</p> <p>8 recommendations that still can get overturned</p> <p>9 because it's based on what they believe department</p> <p>10 policy should be.</p> <p>11 BY MR. BREEDEN:</p> <p>12 Q Well, that's right. And the board that</p> <p>13 can overturn them is the Tactical Review Board,</p> <p>14 and they chose not to on that reasonableness</p> <p>15 finding; correct?</p> <p>16 A Again, I would have -- I -- I read the</p> <p>17 CIRT review board findings. I don't recall the</p> <p>18 Tactical Review Board, but it -- but, again, if</p> <p>19 you're saying that that's on the record, that's</p> <p>20 their belief at the time, it was unreasonable.</p> <p>21 Q So you're saying that was their belief</p> <p>22 at the time, that it was unreasonable, that the</p> <p>23 knock and announce rule had not been complied</p> <p>24 with.</p> <p>25 So my question is: Is Metro now</p>	<p style="text-align: right;">89</p> <p>1 A Correct.</p> <p>2 Q Okay. And that policy was later</p> <p>3 revised; true?</p> <p>4 A It's been revised a couple of times</p> <p>5 language wise, but it -- it -- yes, it has been</p> <p>6 revised --</p> <p>7 Q Okay.</p> <p>8 A -- several times.</p> <p>9 Q And we'll -- we'll talk about that --</p> <p>10 A Okay.</p> <p>11 Q -- and the revisions and when and why</p> <p>12 they occurred. But I just want to establish for</p> <p>13 now that, prior to this incident, CET was being</p> <p>14 used by Metro's SWAT for knock and announce</p> <p>15 warrants.</p> <p>16 That's true; correct?</p> <p>17 A It's been used for 20-plus years and</p> <p>18 thousands -- thousands of warrants, yes.</p> <p>19 Q Okay. And at least prior to this</p> <p>20 incident, it was Metro's policy that NFDDs also</p> <p>21 complied with knock and announce principles?</p> <p>22 A Yes.</p> <p>23 Q Okay. Was it Metro's policy at that</p> <p>24 time that blind insertion of NFDDs complied with</p> <p>25 the Fourth Amendment?</p>



90

1 A The blind insertion of it is a  
 2 procedural policy that -- that when we introduce  
 3 a -- well, two different factors. So when we're  
 4 introducing one into the structure, they want you  
 5 to visually clear the area to make sure it's not  
 6 going to go off right in front of somebody's face.  
 7 In the outside, they want to make sure  
 8 your -- your area is clear for fire hazards or  
 9 obstructions like small rocks that could propel.  
 10 So two different instants, if either it's going to  
 11 be an outside deployment or inside deployment.  
 12 But, yes, there is procedural policies in our  
 13 manual that dictate clearing of the area.  
 14 Q Are those also constitutional  
 15 requirements under the Fourth Amendment?  
 16 MR. ANDERSON: Objection. Form.  
 17 THE WITNESS: Of the clearing of the  
 18 area?  
 19 BY MR. BREEDEN:  
 20 Q Yes.  
 21 A I don't believe so.  
 22 Q Okay. So you're the current SWAT  
 23 tactical commander, and you're in charge of  
 24 training SWAT on these issues.  
 25 A Was that your question? I'm sorry.

91

1 Q Yeah. I'm sorry.  
 2 A Oh.  
 3 Q I'm looking at my notes here.  
 4 A Okay.  
 5 Q So just to -- to restate the question I  
 6 was about to ask, you believe -- does Metro  
 7 believe that the Constitution would allow it to  
 8 simply blindly deploy or throw into a residence an  
 9 NFDD?  
 10 A No, because if we blindly throw it  
 11 without any control of it, we would have --  
 12 without visually clearing the inside structure,  
 13 there could -- it could cause injury to any  
 14 occupants in there. That's why the stun stick was  
 15 used, so we can have control of where that  
 16 deployment of that 25 was deployed once it was  
 17 inserted.  
 18 Q Now, I've seen the video, you've seen  
 19 the video of the deployment of the stun stick.  
 20 Do you agree with me that when that was  
 21 deployed, when the charge on the stun stick was  
 22 deployed, officers had no idea who was inside the  
 23 apartment or where they were in the apartment?  
 24 A When Officer Bertuccini inserted the  
 25 stun stick, he was aware nobody was directly

92

1 behind the window, but I would agree with you that  
 2 he did not know where Mr. Williams or any other  
 3 occupant was at inside the structure.  
 4 Q Well, there was actually a closed blind  
 5 there; right? People could not see inside.  
 6 A It was closed prior to the insertion,  
 7 but when you insert it, there -- there -- you  
 8 would be able to see that nobody was directly  
 9 behind it. But I agree with you that he couldn't  
 10 see inside that structure to where -- if anybody  
 11 else was in there.  
 12 Q And you agree that deployment of these  
 13 NFDDs close to somebody's person, that those can  
 14 potentially harm the person?  
 15 A If it's directly next to them based on  
 16 the -- the fire -- or the -- I don't want to say  
 17 explosion, but the powder being ignited could burn  
 18 a person if they're directly next to it, and it's  
 19 also a more overpressure that could -- it's a  
 20 higher PSI, more overpressure.  
 21 Q It's against department policy to deploy  
 22 NFDDs too close to a person; right?  
 23 A Yes.  
 24 Q And what is the amount of inches or feet  
 25 that the department considers to be too close?

93

1 A In the Def Tec 25, the manufacturer is  
 2 5 feet. And that's what we use when we insert and  
 3 also deploy on the outside. So we want it to be  
 4 about 5 feet -- around 5 feet.  
 5 Q Are you familiar with the Ninth Circuit  
 6 case Boyd v. Benton County?  
 7 A I don't know it if you -- just off those  
 8 names, but --  
 9 Q Okay. So in Boyd v. Benton County, the  
 10 Ninth Circuit wrote, quote, "Given the inherently  
 11 dangerous nature of the flash-bang device, it  
 12 cannot be reasonable use of force under the Fourth  
 13 Amendment to throw it blind into a room occupied  
 14 by innocent bystanders," end quote.  
 15 So there is a constitutional requirement  
 16 that covers NFDDs and how they're deployed.  
 17 Would you agree with me that  
 18 Mr. Williams was an innocent bystander in this  
 19 operation?  
 20 MR. ANDERSON: Objection. Form.  
 21 THE WITNESS: He was an occupant  
 22 inside the structure that was not named in the  
 23 search warrant, I agree with you. But, again, the  
 24 deployment of the 25 was not thrown into the  
 25 structure where they didn't have control over it,



94

1 so that's -- there's two different -- differences  
 2 on the deployment of actually throwing it into an  
 3 unknown occupied structure or the stun stick,  
 4 where you have control of it and positioning of  
 5 it.  
 6 BY MR. BREEDEN:  
 7 Q And I want to talk about Metro's  
 8 distinction here. So Metro's official position  
 9 is, "We couldn't blindly physically throw an NFDD  
 10 into a room where we didn't know where people  
 11 were, but if we had it on a stun stick and we  
 12 deployed it, we can just deploy it blindly through  
 13 a window."  
 14 Is that what Metro's position is?  
 15 MR. ANDERSON: Objection to form.  
 16 THE WITNESS: Again, it's not blindly  
 17 throwing it in there. When he -- when  
 18 Officer Bertuccini inserted the stun stick into  
 19 that two-side window, he could tell that there was  
 20 nobody directly behind that window, and he  
 21 believed he had the -- a 5-feet distance to  
 22 anybody that he could see, and it's deployed at  
 23 the top of the ceiling to give it the most  
 24 distance away from any occupant that could be in  
 25 there.

95

1 BY MR. BREEDEN:  
 2 Q Well, and, in fact, Mr. Williams was  
 3 sleeping right on the other side of the window;  
 4 right?  
 5 MR. ANDERSON: Objection. Form.  
 6 THE WITNESS: He was to the left of  
 7 the window on the couch, based on what --  
 8 reviewing the reports.  
 9 BY MR. BREEDEN:  
 10 Q How many feet do you believe he was from  
 11 that charge when it was deployed?  
 12 A I believe he was within the safe  
 13 distance, beyond the 5 feet. Because, again,  
 14 you're deploying it to the top of the ceiling, and  
 15 he was closer to the ground.  
 16 Q So how high were the ceilings?  
 17 A I don't know.  
 18 Q Was the stun stick actually touching the  
 19 top of the ceiling?  
 20 A In the deployment and planning of the  
 21 deployment, you want to get it closest to the --  
 22 the top of the ceiling. I would have to review  
 23 photos of the actual inside, and we could see burn  
 24 marks or something like that that would dictate  
 25 how close it was to the top of the ceiling.

96

1 Q And then where Mr. Williams' head was --  
 2 if he had actually been sleeping in a horizontal  
 3 position, his head would have been at least a  
 4 couple of feet off the ground.  
 5 Do you agree?  
 6 A If he was sleeping sitting down?  
 7 Q Laying down.  
 8 A Laying down. Again, I don't know the  
 9 distance of the ceiling to Mr. Williams, but,  
 10 again, it would still be within the recommended  
 11 distance of the 25, given that -- the 175 decibel  
 12 and the PSI level.  
 13 Q Would Metro concede that if a jury heard  
 14 this case and felt that the NFDD was deployed  
 15 within 5 feet of Mr. Williams, that that would  
 16 violate his constitutional rights?  
 17 MR. ANDERSON: Objection. Form.  
 18 THE WITNESS: I don't believe it would  
 19 violate his constitutional rights. It's just how  
 20 much more overpressure or decibel levels that he  
 21 would succumb to. Now, if he was directly behind  
 22 the window and we knew that and we still deployed  
 23 the 25, that could constitute.  
 24 BY MR. BREEDEN:  
 25 Q Would Metro concede if a jury felt that

97

1 the 25 was deployed in less than 5 feet from  
 2 Mr. Williams, that that would violate department  
 3 policy?  
 4 MR. ANDERSON: Objection. Form.  
 5 Go ahead.  
 6 THE WITNESS: Again, the recommended  
 7 distance given by the manufacturer is 5 feet based  
 8 on decibel and PSI level. The -- again, going  
 9 back to clearing directly behind it and the belief  
 10 that Officer Bertuccini believed he had enough  
 11 distance from anybody he could see, he believed  
 12 that he had enough distance to deploy the NFDD.  
 13 BY MR. BREEDEN:  
 14 Q Okay. Well, whether he believed that or  
 15 not, if, in fact, he deployed that in less than  
 16 5 feet from Mr. Williams, that would be against  
 17 the manufacturer's recommendation; correct?  
 18 A Yes.  
 19 Q And has Metro adopted the manufacturer's  
 20 recommendation as its policy as well?  
 21 MR. ANDERSON: Objection. Form.  
 22 THE WITNESS: We follow the  
 23 recommendations of the manufacturer to do it -- to  
 24 deploy it inside a structure, yes --  
 25 MR. BREEDEN: Okay. Now, I'm going to

<p style="text-align: right;">98</p> <p>1 hand you something that we'll have marked -- I</p> <p>2 think this will be Exhibit 2 to today's</p> <p>3 deposition.</p> <p>4 (Exhibit 2 was identified.)</p> <p>5 BY MR. BREEDEN:</p> <p>6 Q Exhibit 2 is an excerpt from Las Vegas</p> <p>7 Metropolitan Police's SWAT manual, and it's been</p> <p>8 produced in this litigation as LVMPD1490 and 1491.</p> <p>9 Have you ever seen this portion of the</p> <p>10 manual before?</p> <p>11 A What -- what year was this? Because I</p> <p>12 reviewed the one that was dated prior to this</p> <p>13 incident, so is this the one that was --</p> <p>14 MR. ANDERSON: This is 2021, yeah.</p> <p>15 THE WITNESS: 2021. Okay.</p> <p>16 BY MR. BREEDEN:</p> <p>17 Q Yeah, I think this is the one that was</p> <p>18 in effect when this incident occurred.</p> <p>19 A Okay. Yes, I did review it.</p> <p>20 Q Okay. I will let you know that, you</p> <p>21 know, there's -- there's probably 20,000 pages of</p> <p>22 documents that have been produced in this</p> <p>23 litigation, and this is the only document that I</p> <p>24 can find that discusses knock and announce and</p> <p>25 Wilson v. Arkansas and anything that might be</p>	<p style="text-align: right;">100</p> <p>1 and of itself --</p> <p>2 BY MR. BREEDEN:</p> <p>3 Q Yes.</p> <p>4 A -- would be not enough --</p> <p>5 Q Okay.</p> <p>6 A -- documentation. But this isn't the</p> <p>7 only training or times that they're taught about</p> <p>8 in -- in the totality of learning about search</p> <p>9 warrants, planning them, and serving them.</p> <p>10 Q Do you agree that this is the only area</p> <p>11 of the SWAT manual -- the specific SWAT manual</p> <p>12 that mentions knock and announce?</p> <p>13 A In the SWAT manual?</p> <p>14 Q Yes.</p> <p>15 A Yes. And this is under the -- I believe</p> <p>16 this section is a cutout from the -- the service</p> <p>17 of search warrants tactical planning.</p> <p>18 Q Okay. And this portion of the SWAT</p> <p>19 manual, it doesn't mention other applicable,</p> <p>20 more-detailed cases like the Banks or the</p> <p>21 Granville case, and it doesn't give any guidance</p> <p>22 as to the amount of seconds or minutes that's</p> <p>23 reasonable under those cases.</p> <p>24 Do you agree with that?</p> <p>25 A I do agree with that, that they only</p>
<p style="text-align: right;">99</p> <p>1 considered training on those subjects.</p> <p>2 Are you aware of something other than</p> <p>3 this document that has been used to train SWAT</p> <p>4 officers on knock and announce principles?</p> <p>5 A Yes, I -- again, it goes -- we have a</p> <p>6 PowerPoint lesson plan on tactical planning and</p> <p>7 service of search warrants that, again, covers all</p> <p>8 of these factors. I would have to review the date</p> <p>9 again to see if it was -- I believe it was '21. I</p> <p>10 just don't know if it was prior to this incident.</p> <p>11 Q Okay. And the -- the topic actually</p> <p>12 requests that if you are aware of other documents,</p> <p>13 that you be able to reference the specific Bates</p> <p>14 number, which is an identifier used for this</p> <p>15 litigation.</p> <p>16 I'm sure that you don't have a</p> <p>17 photographic memory, but are you aware of a</p> <p>18 specific Bates number for that training you</p> <p>19 referred to?</p> <p>20 A No.</p> <p>21 Q Okay. So will you agree with me that</p> <p>22 Exhibit 2 by itself is insufficient training as to</p> <p>23 the knock and announce rule?</p> <p>24 MR. ANDERSON: Objection. Form.</p> <p>25 THE WITNESS: Just this document in</p>	<p style="text-align: right;">101</p> <p>1 cite the Wilson v. Arkansas.</p> <p>2 Q Yeah.</p> <p>3 Does Metro even provide the Wilson v.</p> <p>4 Arkansas case to SWAT members so they can actually</p> <p>5 read the case?</p> <p>6 A The -- the whole case in entirety, I</p> <p>7 couldn't answer that question, but it -- the</p> <p>8 summary, I believe they should talk about it in</p> <p>9 the tactical planning service of search warrant</p> <p>10 class.</p> <p>11 Q Okay. But sitting here today, you have</p> <p>12 no information that the actual case is provided to</p> <p>13 officers to read?</p> <p>14 A No.</p> <p>15 Q Okay. So, again, we're talking about</p> <p>16 the policies and procedures which were in effect</p> <p>17 prior to January 10, 2022.</p> <p>18 And so, at that time, what was the</p> <p>19 department's formal or informal policy or practice</p> <p>20 as to the issue -- the following issue: When</p> <p>21 knock and announce is performed when serving a</p> <p>22 warrant, is there to be an actual physical knock</p> <p>23 on the door?</p> <p>24 A No.</p> <p>25 Q So it was Metro's official policy not to</p>



<p style="text-align: right;">102</p> <p>1 even attempt a physical knock?</p> <p>2 A The policy dictates you have to give</p> <p>3 announcements, but it doesn't specifically cite</p> <p>4 that it has to be an actual knock and announce,</p> <p>5 but as long as you give an announcement of your</p> <p>6 purpose and authority.</p> <p>7 Q Okay. Was Metro's policy to ever</p> <p>8 attempt a physical knock?</p> <p>9 A Again, citing the -- what is written,</p> <p>10 there's no policy that says you have to physically</p> <p>11 knock, because we base it off U.S. and state law</p> <p>12 where there is no mention of an actual physical</p> <p>13 knock as long as you still verbalize your</p> <p>14 authority and purpose.</p> <p>15 Q Well, the rule is literally called knock</p> <p>16 and announce, not knock or announce; right? But</p> <p>17 you're telling me that Metro's policy was not to</p> <p>18 even attempt the knock portion?</p> <p>19 A So going to the knock and announce,</p> <p>20 actually coming from common law going to U.S. law</p> <p>21 and -- and state law, it doesn't specifically</p> <p>22 announce in any case law that there is an actual</p> <p>23 physical knock needed for the announcements. We</p> <p>24 based our policy on those factors.</p> <p>25 If there's an opportunity to make a</p>	<p style="text-align: right;">104</p> <p>1 planned to not knock on it. The -- the planning</p> <p>2 was to give the two announcements prior to the</p> <p>3 insertion of the stun sticks, and -- and that</p> <p>4 satisfied the knock and announce part of it.</p> <p>5 I could not tell you why Jake Warner or</p> <p>6 Russ Backman or Garth Findley decided not to</p> <p>7 knock.</p> <p>8 Q But Metro acknowledges it was preplanned</p> <p>9 that there would be no knock?</p> <p>10 A Yes.</p> <p>11 Q There wasn't any factor that, like, they</p> <p>12 were planning to knock, and then they got there</p> <p>13 and they thought, "Oh, it might be dangerous for</p> <p>14 this reason or that reason to knock, so we're not</p> <p>15 going to do it"?</p> <p>16 A I don't know if they had that in mind.</p> <p>17 But based on reviewing the documents of the</p> <p>18 planning phase of this, it was -- the two</p> <p>19 announcements would satisfy the knock and</p> <p>20 announce.</p> <p>21 Q Does Metro have any policy, training, or</p> <p>22 guidance to its SWAT officers as to when they</p> <p>23 should knock?</p> <p>24 A There's no guidance to the actual</p> <p>25 physical knock. It's just, again, based on the</p>
<p style="text-align: right;">103</p> <p>1 knock, the -- the tactical team, when they briefed</p> <p>2 it, if they thought it was safe to do so, if there</p> <p>3 was timing, they would do so. It's -- it's not</p> <p>4 that they would never do it. But based on case</p> <p>5 law, they said -- or they believed just the</p> <p>6 announcements and the -- announcing their purpose</p> <p>7 would satisfy the knock and announce.</p> <p>8 Q So it was Metro's official policy that</p> <p>9 the knock did not necessarily have to be</p> <p>10 performed?</p> <p>11 A Correct.</p> <p>12 Q And so whose discretion was that left to</p> <p>13 as to whether the knock would actually be</p> <p>14 performed?</p> <p>15 A It would be up to the assistant team</p> <p>16 leader who is making the plan, the team leader who</p> <p>17 reviews it, and the tactical commander that</p> <p>18 approves it.</p> <p>19 Q Now, in Mr. Williams' particular case,</p> <p>20 you know, I -- I've seen the video, and there's</p> <p>21 probably at least three officers within 2 or</p> <p>22 3 feet of the front door when this happens.</p> <p>23 For this particular operation, why did</p> <p>24 no one attempt a knock?</p> <p>25 A I couldn't tell you why these -- they</p>	<p style="text-align: right;">105</p> <p>1 principles of the knock and announce that we</p> <p>2 believe that it doesn't have to be a physical</p> <p>3 knock as long as you give announcements to your</p> <p>4 authority and purpose.</p> <p>5 Q Okay. At that time, what was the</p> <p>6 department's formal or informal policy or practice</p> <p>7 as to the following: When knock and announce is</p> <p>8 to be performed on an apartment, should the</p> <p>9 announcement include the actual apartment number?</p> <p>10 A The physical address should always be</p> <p>11 announced, no matter if it's a residence, a</p> <p>12 single -- a family residence or an apartment. You</p> <p>13 would have to state the actual property of the</p> <p>14 search warrant.</p> <p>15 Q And so for an apartment, that would</p> <p>16 include the apartment number?</p> <p>17 A Correct.</p> <p>18 Q Okay. Do you recall hearing the first</p> <p>19 and second announcements from Sergeant Backman?</p> <p>20 A Yes, I do.</p> <p>21 Q Okay. And do you recall whether the</p> <p>22 first announcement mentioned the apartment number?</p> <p>23 A I believe the first announcement, he</p> <p>24 said the apartment number at the end of his first</p> <p>25 phrase and again at the end of the second phrase,</p>



<p style="text-align: right;">106</p> <p>1 but I do know it was said after -- it wasn't in  2 conjunction with the actual property address off  3 of Nellis, but it was said in that phrase of  4 the -- the announcement.  5 Q Okay. Would Metro agree that if the  6 first announcement did not include the apartment  7 number, that that announcement was improperly  8 performed?  9 MR. ANDERSON: Objection. Form.  10 THE WITNESS: It would not be  11 improperly performed, because I still believe the  12 apartment number was given. It was not given  13 directly with the actual Nellis address, but as  14 long as he got the apartment address out during  15 his announcements, it was -- it would satisfy the  16 announcement.  17 BY MR. BREEDEN:  18 Q Okay. Do you recall the apartment  19 number only being mentioned in the second  20 announcement but not the first?  21 A I believe -- was -- was the apartment  22 1120?  23 Q 1125.  24 A 1125 was stated prior to the second  25 announcement.</p>	<p style="text-align: right;">108</p> <p>1 BY MR. BREEDEN:  2 Q The question is: Did he give it out in  3 the first or the second announcement? And I  4 believe it was the second.  5 Is that your testimony?  6 A No, I believe it's still within the  7 first announcement. He just gave the apartment  8 number at the end. He -- it did -- it was not the  9 number of Nellis, Nellis, apartment this, and then  10 search warrant. It -- he broke it up.  11 Q You would agree that, hypothetically, if  12 you just went to the apartment complex and you  13 said, "3050 South Nellis, search warrant," that's  14 not enough information for people in the apartment  15 complex to understand whether their apartment is  16 the subject of the warrant?  17 A For that specific apartment, no.  18 Q Okay. At that time, what was the  19 department's formal or informal policy or practice  20 as to preplanning the use of NFDDs for search  21 warrants?  22 A Again, the policy to use the NFDDs would  23 be based on the search warrant itself. And in  24 this case, it was the CET. The -- the use of the  25 NFDDs were a tactical advantage option. They used</p>
<p style="text-align: right;">107</p> <p>1 Q So along with the second announcement?  2 A So when he gave his first one -- I would  3 have to read the exact verbiage, but I believe he  4 gave the address, and then they had a police  5 search warrant, and then he said 1125. And then  6 he reinstituted that same announcement.  7 Q Okay. Does Metro believe that the first  8 announcement was properly given?  9 A Yes.  10 Q It believes that the first announcement  11 complied with its own internal policies?  12 A Yes.  13 Q Well, hypothetically, if the first  14 announcement didn't include the apartment number,  15 would Metro concede that that announcement was  16 against department policy?  17 MR. ANDERSON: Objection. Incomplete  18 hypothetical.  19 Go ahead.  20 THE WITNESS: Again, as long as Russ  21 Backman got out the apartment number, our -- the  22 purpose to announce is to give them, again, our  23 authority and purpose for being out there. So  24 Russ Backman did, in this case, give out the --  25 the apartment number, but ...</p>	<p style="text-align: right;">109</p> <p>1 two different NFDDs, one to insert it into the  2 window and another on the two side, the nine bang,  3 to distract the occupants away from the front  4 door, which they were about to breach.  5 Q Were -- were NFDDs authorized for the  6 use in any search warrant?  7 A It would -- based -- again, it would be  8 factors that determine, and then there would be  9 factors when we couldn't use them.  10 Q Okay. Who were the people that made the  11 decision on this particular search warrant to use  12 NFDDs?  13 A So, again, all plans are -- start with  14 the assistant team leader on -- based on what his  15 options are throughout the service of the search  16 warrant. He briefs it to the team lead, who  17 then -- the tactical commander has to give  18 approval for the insertion of an NFDD but not for  19 the outside implementation of an NFDD. So in this  20 case, they inserted one, so she had to improve the  21 insertion of the NFDD.  22 Q So, specifically, you're referring to  23 Lieutenant O'Daniel?  24 A Yes.  25 Q And also Sergeant Backman reviewed and</p>

<p style="text-align: right;">110</p> <p>1 approved that; correct?</p> <p>2 A Sergeant Backman, and I believe</p> <p>3 ultimately Sergeant Findley as well the day of.</p> <p>4 Q Is it Metro's position that the NFDDs</p> <p>5 were properly deployed on January 10, 2022?</p> <p>6 A The -- the insertion -- I believe the</p> <p>7 CIRT's review said that they could not properly</p> <p>8 clear the entirety of that structure prior to the</p> <p>9 insertion, and also there was not enough evidence</p> <p>10 or presurveillance to say if there was going to be</p> <p>11 young children or elderly adults that we would</p> <p>12 want to stay away from. That was their position.</p> <p>13 Q So that was CIRT's position, that the</p> <p>14 NFDD had been improperly used, and TRB agreed or</p> <p>15 sustained that conclusion; correct?</p> <p>16 A Based on the -- the unknown factors that</p> <p>17 they cited.</p> <p>18 Q And is that Metro's position in this</p> <p>19 litigation, or is Metro going to disagree with its</p> <p>20 own CIRT and TRB report?</p> <p>21 MR. ANDERSON: Objection. Can you</p> <p>22 clarify as to whether you're talking policy or</p> <p>23 constitution?</p> <p>24 MR. BREEDEN: Yeah. I can ask it --</p> <p>25 MR. ANDERSON: Does that make sense?</p>	<p style="text-align: right;">112</p> <p>1 NFDDs was improper?</p> <p>2 A Not on a constitutional level. It was</p> <p>3 based on the -- the policy of the insertion for --</p> <p>4 to keep it away from young children and adult --</p> <p>5 elderly.</p> <p>6 Q Okay. Well -- and, I mean, when you say</p> <p>7 "young children," would a 19-year-old man fall</p> <p>8 into the category of people who need to be safe?</p> <p>9 A We're -- when we're -- the policy is</p> <p>10 more for young children that are developing their</p> <p>11 eardrums, because it's the decibel level, so we're</p> <p>12 talking about toddler age, small children that are</p> <p>13 still developing in the -- in the eardrums.</p> <p>14 Q But the policy on NFDDs is really for</p> <p>15 everyone's safety inside; right? I think it --</p> <p>16 the case law refers to innocent bystanders.</p> <p>17 A So -- so when the -- when you're talking</p> <p>18 about the innocent occupants inside, it's for the</p> <p>19 free throwing of a distract. So we have more of a</p> <p>20 leverage when we use a stun stick and we can</p> <p>21 control that deployment.</p> <p>22 And, again, going back to what the team</p> <p>23 leaders and ATL believed at that time, was there</p> <p>24 wasn't any factors that would limit them from</p> <p>25 introducing the 25, and it was ultimately approved</p>
<p style="text-align: right;">111</p> <p>1 MR. BREEDEN: I can ask it as both.</p> <p>2 BY MR. BREEDEN:</p> <p>3 Q So is it Metro's position that insertion</p> <p>4 of the NFDDs violated its own policies?</p> <p>5 A So CIRT stated that there was not enough</p> <p>6 information on the occupants after reviewing the</p> <p>7 facts after the case. The planning of the</p> <p>8 insertion of the NFDDs was based on what they knew</p> <p>9 at that time. Jake Warner, being the ATL, and</p> <p>10 Sergeant Russ Backman believed they did not have</p> <p>11 enough intel to tell them that there was going to</p> <p>12 be those factors of young children or elderly in</p> <p>13 that structure, so they believed they were well</p> <p>14 within policy to insert and deploy the 25.</p> <p>15 CIRT disagreed with that based on there</p> <p>16 wasn't enough surveillance -- presurveillance to</p> <p>17 ascertain if there was going to be young kids or</p> <p>18 elderlies inside that residence.</p> <p>19 Q And so does -- does Metro agree, then,</p> <p>20 that that deployment of NFDDs was against its own</p> <p>21 policies?</p> <p>22 A Based on CIRT's recommendation that</p> <p>23 there was not enough presurveillance, yes.</p> <p>24 Q Okay. And does Metro believe that, from</p> <p>25 a constitutional standpoint, that insertion of the</p>	<p style="text-align: right;">113</p> <p>1 by Lieutenant O'Daniel.</p> <p>2 Q Are you saying, then, it's Metro's</p> <p>3 position that if they physically tossed this NFDD</p> <p>4 at the ceiling, they couldn't constitutionally do</p> <p>5 that, but if they just have it on the end of a</p> <p>6 stick and do the same thing, that is permissible?</p> <p>7 A No. Again, those are both policies that</p> <p>8 we try to mitigate injury, so we -- we don't want</p> <p>9 to deploy into something that we haven't fully</p> <p>10 cleared. So if we went into that room and we</p> <p>11 could fully see that it was clear and we wanted to</p> <p>12 deploy the distract, we could freely do that.</p> <p>13 Now, to insert it into something with</p> <p>14 closed blinds, if you could clear behind the</p> <p>15 blinds and -- and you believed at the time, or</p> <p>16 Officer Bertuccini, that there was nothing within</p> <p>17 that distance of deploying it on the stun stick,</p> <p>18 he was within the SWAT policy at the time.</p> <p>19 Q And the next topic, I think we've</p> <p>20 already spoken about this some.</p> <p>21 But you're saying, at that time, there</p> <p>22 was no formal or informal policy or practice as to</p> <p>23 how long in seconds or minutes officers were</p> <p>24 supposed to wait between the announcement and</p> <p>25 using force to enter a residence.</p>



114

1 Is that Metro's position?

2 A On -- given the exact time before, no.

3 Q Okay. I'll hand you what we've marked

4 as Exhibit 3.

5 (Exhibit 3 was identified.)

6 BY MR. BREEDEN:

7 Q Just for the record, Exhibit 3 is some

8 guidance from the Nevada Commission on Peace

9 Officers Standing -- Standards and Training, or

10 Nevada POST, and it's been produced in this

11 litigation as Williams 809 and 810.

12 Have you ever seen this document before?

13 A I have.

14 Q Okay. Would you agree with me that

15 somebody who's in charge of tactics and training

16 of SWAT officers should be familiar with POST's

17 guidance on those issues?

18 MR. ANDERSON: Objection. Form.

19 THE WITNESS: Again, our -- our SWAT

20 policy covers state and federal law, and then it

21 comes to -- there's some standards that -- in the

22 POST that not every officer may read every single

23 section of a POST requirement.

24 BY MR. BREEDEN:

25 Q Well, okay.

115

1 But you would agree with me that if you

2 were in charge of training and running a SWAT team

3 in the state of Nevada, that it would be a good

4 idea to familiarize yourself with what Nevada POST

5 says about that?

6 A It would be a good standard to know what

7 Nevada POST says on a topic, but you don't -- we

8 won't base everything based on POST. But your

9 question -- your -- I guess your question was,

10 should persons be -- in the training, be familiar

11 with everything that constitutes our deployment.

12 I would agree with you.

13 Q Prior to the incident in this case, were

14 officers trained on this Nevada POST guidance

15 about knock and announce?

16 A Prior to, I couldn't -- can't recall. I

17 don't -- through my research of looking at the

18 manual and lesson plans, I don't believe that this

19 was instituted in any training prior to this

20 incident.

21 Q And so Nevada POST, at the bottom of the

22 first page here in a little note, it states that,

23 you know, the time that is considered reasonable

24 is going to depend on the circumstances, but then

25 it says approximately one minute would be

116

1 considered in -- safe in most cases.

2 That guidance was never provided to SWAT

3 officers before Mr. Williams' shooting; correct?

4 A Where -- where -- what paragraph is

5 that?

6 Q I'm sorry. It's at the very bottom here

7 in this notes section on the first page.

8 A Okay.

9 Q You would agree with me that SWAT

10 officers before the -- Mr. Williams' shooting were

11 never trained on this one-minute standard?

12 A Correct.

13 Q Do you think that's a good standard

14 there? It says, "Approximately one minute would

15 be a safe period in most cases, but it can be

16 less, especially if peace officers know that

17 somebody is aside -- inside and awake."

18 Do you agree with that?

19 A I don't know who came up with the one

20 minute, because, again, through any case law,

21 state law, there isn't any specific mentioning of

22 you have to wait one minute in most cases, like

23 this refers to. I don't know who would -- who put

24 this in here, where it originated from, how long

25 it's been in there.

117

1 But, again, I think they're using the

2 one minute as reasonableness, and then they leave

3 it open to in most cases. So -- and then it says,

4 "But it can be less," so I don't -- again, it's

5 still ambiguous, because it leaves what's less.

6 Q Well, it gives at least some guidance to

7 officers; right?

8 A This POST standard?

9 Q Yes.

10 A It would -- yes, based on that language.

11 Q And does Metro want to do the bare

12 minimum to comply with the constitutional

13 standards, or does Metro want to do what's safest

14 for its own officers and members of the public?

15 MR. ANDERSON: Objection. Form.

16 THE WITNESS: Again, we base our

17 tactics on every situation. There could be some

18 situations that we wait one minute. There would

19 be some situations where we wait six seconds, like

20 this incident was.

21 BY MR. BREEDEN:

22 Q And the example given here in the Nevada

23 POST for when less time might be appropriate is if

24 peace officers know that someone is inside and

25 awake.



<p style="text-align: right;">118</p> <p>1 But that was not the case with</p> <p>2 Mr. Williams; correct?</p> <p>3 A Based on what the POST is saying here,</p> <p>4 if -- if they're giving a factor of less than one</p> <p>5 minute if someone is inside and awake, I don't</p> <p>6 know if the operators outside would know that at</p> <p>7 that time. They could not know that.</p> <p>8 Q Well, yeah, because, in fact, they --</p> <p>9 they didn't know if -- they didn't know who the</p> <p>10 occupants were, if any, and they didn't know where</p> <p>11 they were inside, and they didn't know whether</p> <p>12 they were asleep or awake.</p> <p>13 Isn't that all true?</p> <p>14 A I would say that's true.</p> <p>15 Q Now, knock and announce says that</p> <p>16 officers have to at least perform the announcement</p> <p>17 and then wait a reasonable amount of time for</p> <p>18 somebody to come to the door and provide them</p> <p>19 admittance.</p> <p>20 What is Metro's position on whether or</p> <p>21 not the amount of time is measured from the</p> <p>22 begin -- beginning of the announcement or the end</p> <p>23 of the announcement?</p> <p>24 A Metro's position would be the -- at the</p> <p>25 very onset of the first announcement is when the</p>	<p style="text-align: right;">120</p> <p>1 Q I want you to imagine that the</p> <p>2 announcement maybe was rather long and drawn out</p> <p>3 and maybe the announcement was, "This is</p> <p>4 Sergeant Backman of the Las Vegas Metropolitan</p> <p>5 Police Department. I am here for 3050 South</p> <p>6 Nellis Boulevard, Apartment 25. We are police,</p> <p>7 and we have a search warrant." That's the</p> <p>8 announcement.</p> <p>9 So it's Metro's position, then, that you</p> <p>10 would start counting the reasonable amount of time</p> <p>11 from when the word "this" was said at the</p> <p>12 beginning of that announcement, versus when the</p> <p>13 announcement is complete?</p> <p>14 A So the reasonable amount of time -- the</p> <p>15 time that we start is, yes, at the start of the</p> <p>16 announcements.</p> <p>17 Q Okay. So, in my example -- which is</p> <p>18 kind of a long announcement, admittedly --</p> <p>19 theoretically, three or four seconds could go by,</p> <p>20 and I'm still not even done with the announcement.</p> <p>21 A I don't understand the question.</p> <p>22 Q Well, Metro is saying -- let's say</p> <p>23 Metro's policy is, "Well, we're going to do the</p> <p>24 announcement and wait three seconds before we use</p> <p>25 force." If I start to say, "This is</p>
<p style="text-align: right;">119</p> <p>1 time starts.</p> <p>2 Q Okay. So if the idea is for the</p> <p>3 announcement to give somebody an idea of who is</p> <p>4 outside their door and why they're there, how</p> <p>5 could somebody know that at the beginning of the</p> <p>6 announcement before the announcement is completed?</p> <p>7 A The -- the announcement -- the beginning</p> <p>8 of the announcement gives the verbal announcement</p> <p>9 of authority and purpose, and then it's given</p> <p>10 throughout the entirety of the search warrant. So</p> <p>11 we base our time, again, on the start of the</p> <p>12 announcements --</p> <p>13 Q Okay.</p> <p>14 A -- for the reasonableness of time, based</p> <p>15 on when -- what the tactic is dictating.</p> <p>16 And then we -- going back to this case,</p> <p>17 it was a CET, and they planned for the two</p> <p>18 announcements prior to the introduction -- the</p> <p>19 introduction of the stun stick and then the manual</p> <p>20 breach to enter the residence.</p> <p>21 Q So I want to give a hypothetical -- a</p> <p>22 hypothetical fact here to make sure that we're</p> <p>23 talking about the same thing and we're on the same</p> <p>24 page.</p> <p>25 A Mm-hmm.</p>	<p style="text-align: right;">121</p> <p>1 Sergeant Backman of the Las Vegas Metropolitan</p> <p>2 Police force," and I -- and I say it in a slow</p> <p>3 manner, three seconds might go by before I've even</p> <p>4 finished the announcement.</p> <p>5 And it's Metro's position that that's</p> <p>6 okay?</p> <p>7 A Again, we're going back to -- to</p> <p>8 constitutional law and state law of</p> <p>9 reasonableness, the amount of time. We still</p> <p>10 are -- don't have any specific guidance that it</p> <p>11 says you need exactly when to -- to start your</p> <p>12 counting of your -- of the timing of before or</p> <p>13 after. They used the reasonable amount of time at</p> <p>14 the start, and they used two announcements prior</p> <p>15 to insertion of the stun stick.</p> <p>16 Q Well, they actually used as their</p> <p>17 trigger the end of the second announcement; right?</p> <p>18 I mean, it was preplanned that they would break</p> <p>19 out the back window on the end of the second</p> <p>20 announcement; right?</p> <p>21 A Correct.</p> <p>22 Q Okay. Why wouldn't they have said,</p> <p>23 "Well, we'll -- we'll preplan at the -- at the</p> <p>24 beginning of the second announcement"?</p> <p>25 A I'm sorry. I didn't -- the -- why</p>

<p style="text-align: right;">122</p> <p>1 wouldn't they plan? I'm sorry. Can you --</p> <p>2 Q Yeah. Well -- well, the answer seems to</p> <p>3 me -- and I don't mean to be argumentative.</p> <p>4 A No.</p> <p>5 Q But they waited for the announcement to</p> <p>6 end because even they thought it was reasonable</p> <p>7 that they should wait until at least the</p> <p>8 announcement was finished.</p> <p>9 Isn't that what they actually did?</p> <p>10 A So the plan that was -- that was briefed</p> <p>11 was they would give two announcements of the</p> <p>12 authority and purpose prior to the insertion of</p> <p>13 the stun stick, prior to them making the manual</p> <p>14 breach to enter the residence, correct.</p> <p>15 Q Okay. So you're here saying today,</p> <p>16 well, we would measure that time from the</p> <p>17 beginning of the announcement, but Metro's own</p> <p>18 trigger that day or that morning was the end of</p> <p>19 the second announcement; right?</p> <p>20 A The -- the option to deploy the stun</p> <p>21 stick was -- was a tactical planning at the end of</p> <p>22 the second announcement.</p> <p>23 Q At the time, what were Metro's policies</p> <p>24 and procedures as to how it determined when</p> <p>25 warrants were high risk?</p>	<p style="text-align: right;">124</p> <p>1 involved in the homicide they were investigating</p> <p>2 that was not accounted for and believed to have</p> <p>3 been staying at that residence.</p> <p>4 Q But I'm -- I'm trying to figure out why</p> <p>5 the -- the warrant in this particular case was</p> <p>6 considered high risk.</p> <p>7 Was it merely because a homicide was</p> <p>8 being investigated, or were there other factors?</p> <p>9 A The factors that it was deemed high risk</p> <p>10 is because the person that they -- the individuals</p> <p>11 that they believed were the suspects at the time</p> <p>12 of the homicide both had violent histories and</p> <p>13 known to carry weapons, and they did not know if</p> <p>14 they were going to be inside or not.</p> <p>15 Q Now, almost a year prior to</p> <p>16 Mr. Williams' death, there was another incident on</p> <p>17 January 5th of 2021 which occurred at 27 East</p> <p>18 Agate Avenue, and it involved a woman named</p> <p>19 Jasmine King.</p> <p>20 Just generally, what -- what occurred</p> <p>21 during that incident?</p> <p>22 A From my reading of the reports -- again,</p> <p>23 I was not assigned to the SWAT section, but they</p> <p>24 used a CET on the service of a search warrant. It</p> <p>25 stemmed from a sexual assault investigation. They</p>
<p style="text-align: right;">123</p> <p>1 A High risk would -- would be the crime</p> <p>2 itself, if they're likely to be armed. There's</p> <p>3 some other factors. I'm just drawing a blank.</p> <p>4 I'm sorry.</p> <p>5 Q Well, the crime that they were</p> <p>6 investigating -- and, incidentally, as it turned</p> <p>7 out, they -- they weren't even investigating the</p> <p>8 people who committed this crime. They had the</p> <p>9 wrong suspects, apparently, because they've</p> <p>10 arrested somebody else for the crime now. But we</p> <p>11 were investigating a homicide.</p> <p>12 Is it Metro's policy or practice that</p> <p>13 any homicide warrant service is considered high</p> <p>14 risk?</p> <p>15 A If we were going -- so that's -- that's,</p> <p>16 like, a -- a huge question. Like, any homicide</p> <p>17 investigation, it depends what we were going</p> <p>18 after. If we were going after documents in a</p> <p>19 building that would help the detectives in their</p> <p>20 investigation, could be not deemed high risk</p> <p>21 because we were going after documents at a</p> <p>22 different facility.</p> <p>23 This particular incident, there was</p> <p>24 belief that there may be a suspect still that they</p> <p>25 believed was a person of interest that was</p>	<p style="text-align: right;">125</p> <p>1 utilized an explosive breach of the front door.</p> <p>2 The explosive breach was initiated and ended up</p> <p>3 injuring -- severely injuring a female that was</p> <p>4 behind the door.</p> <p>5 Q And that female was Jasmine King?</p> <p>6 A Yes.</p> <p>7 Q And so, like in Mr. Williams' case,</p> <p>8 members of SWAT were accused of violating the</p> <p>9 knock and announce rule and not waiting a</p> <p>10 reasonable amount of time for somebody to come to</p> <p>11 the door and provide them admittance; is that</p> <p>12 true?</p> <p>13 A They were deemed at the -- the</p> <p>14 initiation of the charge was before the reasonable</p> <p>15 amount of time. It was -- it was given too early.</p> <p>16 Q And, in fact, Ms. King, she was not a</p> <p>17 suspect in any crime; correct?</p> <p>18 A I don't believe so. She was not named</p> <p>19 in the --</p> <p>20 Q She was an innocent bystander; right?</p> <p>21 A Yes. She was an occupant of the</p> <p>22 residence.</p> <p>23 Q She was inside a residence with</p> <p>24 children, wasn't she?</p> <p>25 A I believe she had one child in there.</p>



<p style="text-align: right;">126</p> <p>1 Q And the suspect wasn't even inside, was 2 he?</p> <p>3 A No.</p> <p>4 Q And Ms. King was actually trying to 5 answer the door to see, you know, police and -- 6 and let them inside when this happened; right?</p> <p>7 A Yes, after the first announcement. And, 8 again, it goes back to the ignition [sic] of 9 the charge was not properly utilized, which was 10 briefed prior to. It would be at the second 11 announcement.</p> <p>12 Q Do you know how long in seconds between 13 the announcement and when that charge went off was 14 allowed?</p> <p>15 A After -- the actual incident itself?</p> <p>16 Q Yes.</p> <p>17 A The -- it was immediately after the 18 first announcement.</p> <p>19 Q So no time?</p> <p>20 A I believe there was no time after.</p> <p>21 Q Okay. And Ms. King was significantly 22 injured as a result?</p> <p>23 A Yes.</p> <p>24 Q Okay. Do you know, because I -- I only 25 know, like, what's in the public filings, but what</p>	<p style="text-align: right;">128</p> <p>1 Q Okay. In investigating the Jasmine King 2 incident, did Metro determine that officers had 3 violated her civil rights?</p> <p>4 MR. ANDERSON: Objection. Form.</p> <p>5 THE WITNESS: They evaluated that the 6 initiation of the -- of the explosive breach was 7 not consistent with the preplanning of the two 8 announcements.</p> <p>9 BY MR. BREEDEN:</p> <p>10 Q Okay. So, you know, the question, 11 again, just to state it more bluntly: They found 12 that the complaint that alleged her civil rights 13 had been violated had merit?</p> <p>14 MR. ANDERSON: Objection. Form.</p> <p>15 THE WITNESS: Again, I don't think 16 that it was a CIRT process in this incident, so 17 I -- I don't recall reading a report that 18 distinguished otherwise. I do know that it was 19 brought to court based on her injuries. But, 20 again, I can't answer to what the findings were, 21 because there wasn't a similar investigation as in 22 Mr. Williams' case.</p> <p>23 BY MR. BREEDEN:</p> <p>24 Q Was there any discipline of any of the 25 SWAT officers involved in the King incident?</p>
<p style="text-align: right;">127</p> <p>1 were the extent of her injuries?</p> <p>2 A Again, I don't know. I know -- I 3 believe injury to one of her eyes.</p> <p>4 Q Was she permanently blinded?</p> <p>5 A I don't know. I didn't read her medical 6 records. But I believe she had significant damage 7 to one of her eyes.</p> <p>8 Q And that incident, another incident a 9 year prior, where the SWAT team has been accused 10 of failing to abide by the knock and announce 11 rule, that involved many of the same people who 12 are defendants in this case; right?</p> <p>13 A I --</p> <p>14 MR. ANDERSON: Objection. Form. 15 Go ahead.</p> <p>16 THE WITNESS: I do know Garth Findley 17 was there and James Bertuccini.</p> <p>18 BY MR. BREEDEN:</p> <p>19 Q And Melanie O'Daniel as well; right?</p> <p>20 A Correct. Melanie O'Daniel was the 21 tactical commander.</p> <p>22 Q Okay. And then, ultimately, that case 23 was resolved through a settlement for a 24 substantial amount of money; is that true?</p> <p>25 A It was settled.</p>	<p style="text-align: right;">129</p> <p>1 A I believe Garth Findley received a 2 contact for failing to wait for the second 3 announcement to deploy the explosive breach.</p> <p>4 Q Okay. And Sergeant Findley was actually 5 the -- was he the team leader or assistant team 6 leader on Mr. Williams' warrant?</p> <p>7 A He would be a team leader on 8 Mr. Williams.</p> <p>9 Q Okay. So Sergeant Williams, the team 10 leader who was physically there and he's supposed 11 to be the one in charge of Mr. Williams' incident, 12 only a year prior, he had been found that he made 13 some policy violations and some errors that 14 resulted in Ms. King's injuries; correct?</p> <p>15 MR. ANDERSON: Objection. Form. 16 Go ahead and answer.</p> <p>17 THE WITNESS: Sergeant Findley, yes.</p> <p>18 MR. ANDERSON: Just for the record, 19 you said "Sergeant Williams" a couple of times.</p> <p>20 MR. BREEDEN: Oh, I'm so sorry.</p> <p>21 MR. ANDERSON: Yeah, I know you meant 22 Sergeant Findley.</p> <p>23 MR. BREEDEN: Yeah, I meant 24 Sergeant Findley.</p> <p>25 THE WITNESS: Sergeant Findley, yes,</p>



<p style="text-align: right;">130</p> <p>1 he was disciplined at the Jasmine King, referenced  2 the early deployment of the explosive breach, and  3 he was a team leader at the Mr. Williams incident.  4 BY MR. BREEDEN:  5 Q As a result of the Jasmine King  6 incident, what policies, procedures, or practices  7 were changed at SWAT?  8 A There were several based on the  9 deployment of the explosive breach. It was  10 solidified that it would not go prior to the two  11 announcements. We utilize a technology called the  12 WolffTracker that we deploy prior to hanging an  13 explosive breach charge to kind of tell us if  14 there's movement behind the door of the structure  15 that we're putting the charge on, and I believe it  16 had to be approved at a higher level.  17 Q Weren't there changes to the SWAT manual  18 about CET and when it could be used?  19 A I believe there was verbiage changed --  20 I believe there was a word "never" changed, but I  21 don't believe the -- there was much change other  22 than some verbiage of when you could -- I think  23 that was the change for the property.  24 Q What happened around this time regarding  25 SWAT's policies and procedures as to using CET for</p>	<p style="text-align: right;">132</p> <p>1 homicide, but it also named two -- two individuals  2 who, one was on a monitor, monitoring through  3 CCDC, Clark County Detention Center, so we knew he  4 wasn't at that residence. And the other suspect  5 who had a violent history, who had been  6 investigated by gangs for an outstanding  7 shooting -- he was wanted in an outstanding  8 shooting -- possible could be in there. So we  9 still had knowledge that there could be a violent  10 criminal inside that residence, but --  11 Q Okay. But the warrant itself was a  12 property-only search warrant? There was no arrest  13 warrant?  14 A The -- the -- there was no arrest  15 warrant, and the arrest -- the search warrant did  16 not name a body up to seize.  17 Q Okay. So what -- what policy changes,  18 then -- you know, I just want to make sure that  19 we've discussed them all.  20 What are all of the policy changes that  21 happened because of the Jasmine King incident?  22 A The Jasmine King was more of an  23 explosive breaching policy changing of when we  24 would utilize the explosive breaching, how we  25 would announce explosive breaching. We added in</p>
<p style="text-align: right;">131</p> <p>1 a property-only search warrant?  2 A I believe the change was there had to  3 be -- when we're talking about property only, it  4 had to be other mitigating factors to use CET, so  5 it had to be the likelihood of the armed -- armed  6 subjects inside.  7 Q Was CET at any point completely banned  8 for a property-only search warrant?  9 A CET should not be used for property-only  10 search warrants if you don't have mitigating  11 factors.  12 Q Okay. And so what are the mitigating  13 factors?  14 A You don't have a --  15 Q I think maybe you mean aggravating  16 factors.  17 A Or aggravating factors. The likelihood  18 of suspects being armed, violent -- violent  19 suspects, prior history, stuff like that.  20 Q And the search warrant regarding the  21 residence where Mr. Williams was ultimately  22 killed, that was a property-only search warrant;  23 right?  24 A The search warrant for Mr. Williams, it  25 was for the recovery of evidence related to a</p>	<p style="text-align: right;">133</p> <p>1 factors of staying away from the door, and we  2 added in technology to try to ascertain if there  3 was somebody standing behind the door. And then  4 the approval process.  5 MR. BREEDEN: Let's go off the record  6 for a moment.  7 THE VIDEOGRAPHER: The time is  8 12:00 p.m. We are off the record.  9 (Whereupon, a recess was taken.)  10 THE VIDEOGRAPHER: The time is  11 12:59 p.m. We are on the record.  12 BY MR. BREEDEN:  13 Q Okay. Lieutenant Beas, we're back on  14 the record now, and we want to talk some about  15 Metro's post-incident knock and announce policies.  16 I'm going to go through some particular  17 subjects, but how have Metro's policies regarding  18 knock and announce and CET service of warrants  19 changed since the Williams shooting incident?  20 A Again, when CIRT reviewed the case with  21 their legal consultant, they said that some  22 language in the CET policy, specifically the  23 speed, surprise, and overwhelming action, kind of  24 contradicted the reasonableness of time. They  25 wanted to move the CET option to a no knock.</p>

134

1 And after then-Director Peterson  
 2 consulted with them, we changed the policy to a  
 3 CET to be only allowed when a no-knock search  
 4 warrant is approved, and it has been to be  
 5 approved by the captain or director of SWAT.  
 6 Q Even under the policies at the time, if  
 7 Metro had sought a no-knock warrant for the search  
 8 warrant at the apartment where Mr. Williams was  
 9 staying, do you think that would have been  
 10 approved as a no-knock warrant?  
 11 A The -- the detective that was typing  
 12 it -- this Detective Grimmer that was the affiant  
 13 of the search warrant would have to ask the court  
 14 for a no knock. I don't know what his -- the full  
 15 investigation of it was, but the severity of  
 16 crime, if -- I don't know if this one would be  
 17 just based on the details that were put into this  
 18 search warrant after reading it.  
 19 Q So are you familiar with the case of  
 20 Breonna Taylor?  
 21 A Yes, the national case?  
 22 Q Yes.  
 23 A Yes.  
 24 Q It's a national case, I think out of  
 25 Kentucky.

135

1 A Kentucky.  
 2 Q And in that case, there was a lot of  
 3 criticism of law enforcement's use of a no-knock  
 4 warrant; would you agree?  
 5 A Yes, no knocks were criticized, but I  
 6 don't believe Breonna was a no knock, but that  
 7 was -- it brought the no-knock search warrants to  
 8 light.  
 9 Q And so there had been some changes after  
 10 that incident to Nevada law in order to limit  
 11 no-knock warrants; right?  
 12 A Yes.  
 13 Q Okay. And at the time the Williams  
 14 incident occurred, were no-knock warrants very  
 15 common here, used by Metro?  
 16 A No, no-knock warrants have never been  
 17 really common, and especially here in -- in Metro.  
 18 Q Is there sort of a -- an informal policy  
 19 that they are not to be used?  
 20 A No. I just think the way that the  
 21 process is for the search warrant -- because a  
 22 no-knock search warrant would be more of a tactic,  
 23 and when they -- when the affiant of a section or  
 24 a bureau that's authoring the -- the search  
 25 warrant, sometimes they don't meet with SWAT prior

136

1 to the implementation of the warrant, so they  
 2 wouldn't know that we may want a no-knock search  
 3 warrant because it's not approved -- or it's not  
 4 requested by us; it would be requested by the  
 5 detective.  
 6 I don't see anything that was formal or  
 7 informal with the department saying they did not  
 8 want to do them. They're just very uncommon.  
 9 Q When is the last time you, as SWAT  
 10 tactical commander, have approved a no-knock  
 11 warrant?  
 12 A I have never approved a no-knock  
 13 warrant. Or let me back up. Again, I don't  
 14 know -- I don't approve the -- the application for  
 15 a no-knock warrant. If it came as a warrant to me  
 16 to approve for the service of it and it said no  
 17 knock, then I would have to prove that tactic, but  
 18 I've never had a warrant come to me as a no-knock  
 19 search warrant.  
 20 Q Okay. Are you aware of the last time  
 21 SWAT did serve a warrant as a no-knock warrant?  
 22 A I can't recall.  
 23 Q Would you agree with me that the smaller  
 24 the amount of time that officers wait between  
 25 announcements and use of force, the closer it gets

137

1 to being, in practical effect, a no-knock warrant?  
 2 A I would say they're two distinguished  
 3 tactics. The no knock is zero announcements, zero  
 4 time before manually breaching the door. And then  
 5 when you get to the CET or a SACO, the  
 6 reasonableness of time is based on your incident  
 7 at the time, your information, your intel that you  
 8 have.  
 9 Q But if I went to serve a warrant and,  
 10 you know, on my way kicking down the front door, I  
 11 just said, "Police, search warrant," that's  
 12 essentially a no-knock warrant, isn't it?  
 13 A It would be still an announcement. The  
 14 reasonableness of time would be you would have to  
 15 articulate why you kicked it after really quick  
 16 announcement.  
 17 Q Yeah, there -- that would be sort of  
 18 token efforts to give the announcement; right?  
 19 A Based on your -- your hypothetical, yes.  
 20 Q Yeah.  
 21 And Metro doesn't want token efforts to  
 22 comply with the law. They want to comply with the  
 23 law; right?  
 24 A Yes.  
 25 Q They want to comply with the



138

1 Constitution and the spirit of the law; correct?

2 A Correct.

3 Q You indicated that after the Williams

4 event, the policy on CET was changed then and CET

5 is now only to be used with the no-knock warrants.

6 Were there any other changes to policy

7 that were implemented?

8 A Reference to CETs or SACOs or --

9 Q CET, SACO, or how knock and announce is

10 performed.

11 A No. Other than moving the CET to a no

12 knock, we just have more discussion about

13 reasonableness of time given certain factors.

14 It's still -- we still abide by the same

15 pre-policies prior to it, but now that we -- we

16 have not used a CET post this incident, most -- or

17 I don't want say most -- all of our search

18 warrants have been either that SACO or a modified

19 SACO that gives us more time to announce, just

20 based on how far away we are and the actual tactic

21 of not going in.

22 Q So if SWAT served the warrant involved

23 in this case today, there would be no dispute,

24 this would simply be served as a SACO?

25 A It would -- if it was served today, it

139

1 probably would be either a SACO, because it was

2 no -- a no-knock search warrant, or a breach and

3 hold, where we would not enter the threshold with

4 bodies.

5 Q Okay. And let's talk about some of

6 those other options.

7 First of all, there's a no-knock warrant

8 or -- well, no, I should phrase it this way.

9 There's a CT -- CET entry, which is now

10 reserved only for no-knock warrants; correct?

11 A Correct.

12 Q There's SACO.

13 There's an option, if officers don't

14 feel they can safely serve the warrant, to simply

15 not execute the warrant at that moment; right?

16 That's always an option?

17 A That's always -- that's always been an

18 option, even previously. If -- if we believe that

19 there's other options for -- to surveil the

20 suspect out and get them into custody, based on

21 probable cause or an arrest warrant, to take them

22 into custody and then now serve that with the

23 suspect away. That was -- that's an option before

24 and now.

25 Q And you said there's a breach and hold

140

1 option. So explain what that option is and when

2 that would be used.

3 A Again, that's another tactic used in

4 service of search warrants where environmental

5 factors and -- that limit our -- unable to contain

6 it safely for the citizens and officers, that we

7 would get up to the threshold and breach a door

8 and/or window to kind of get a foothold into the

9 structure without actually making entry into the

10 structure with bodies.

11 But, again, that's based on size of the

12 structure, the case, what the search warrant is

13 for. Obviously, you couldn't do it for a

14 3000-square-foot house, because there's no way to

15 have fully contained that house on a breach and

16 hold. So it's case-by-case basis.

17 But it gives you an option, if you can't

18 properly -- because there's some apartment

19 complexes, townhouses, condominiums that you can't

20 safely SACO it. That gives them -- operators

21 another tactic without using a dynamic entry.

22 Q Would -- would breach and hold have been

23 an option for the warrant involved in this case?

24 A I don't believe the -- the SWAT manual,

25 they trained breach and holds. Their options were

141

1 CET or SACO at the time. There might have been

2 some informal breaching and holding, but I don't

3 know if they trained it and formalized it in

4 the -- or in the SWAT manual.

5 Q But at least at the time this incident

6 occurred, a breach and hold was at least a --

7 informally could be used?

8 A I don't believe they trained it as -- to

9 the point where they were implementing that tactic

10 at the time.

11 Q Okay. Given that they didn't know who

12 was inside, and I don't even think they knew

13 whether people were inside, why wouldn't they

14 maybe use a breach and hold here so that, you

15 know, people inside would have time to come out

16 willingly?

17 A Again, I think it goes back to that

18 wasn't a trained tactic that was put into policy

19 or our SWAT manual, and their options that they

20 used at the time were CET or SACO, and those were

21 the ones they trained and were comfortable with

22 and were tried and true methods.

23 Q Okay. The Ninth Circuit has listed the

24 time of day that the warrant is served as a factor

25 into how long it is reasonable for officers to



<p style="text-align: right;">142</p> <p>1 wait between the announcements and the time that</p> <p>2 they use force to enter a residence to serve a</p> <p>3 warrant.</p> <p>4 Metro accepts that as a legal factor to</p> <p>5 apply here; correct?</p> <p>6 A Correct.</p> <p>7 Q And is that specifically taught to SWAT</p> <p>8 officers?</p> <p>9 A Yeah, that is in -- it's in the manual.</p> <p>10 Time of day is a factor in any service of search</p> <p>11 warrants, along with all of the other facts that</p> <p>12 we've talked about.</p> <p>13 Q And the way the factor applies is that</p> <p>14 if the time of day is a time where people are</p> <p>15 likely to be asleep, the amount of time that</p> <p>16 officers should wait should be longer; is that</p> <p>17 true?</p> <p>18 A Minus any information that -- given a</p> <p>19 24-hour town, minus any information that the</p> <p>20 occupants that you're seeking to encounter are not</p> <p>21 that type of individual that, you know, have that</p> <p>22 pattern of life. That's something to factor in,</p> <p>23 correct.</p> <p>24 Q Okay. And also we have the problem like</p> <p>25 if these warrants are served when people are</p>	<p style="text-align: right;">144</p> <p>1 seconds, then, that was afforded Mr. Williams</p> <p>2 was -- was not a reasonable amount of time?</p> <p>3 A In the CIRT review, they -- they note</p> <p>4 that -- that the six seconds and the time of day</p> <p>5 probably wasn't proper.</p> <p>6 Q And you're not disputing that finding</p> <p>7 here today?</p> <p>8 A No.</p> <p>9 Q Okay. Another one of the factors that</p> <p>10 is mentioned in the Banks case is the officer's</p> <p>11 other observations that would support forced</p> <p>12 entry. In Mr. Williams' specific case, and I --</p> <p>13 I've -- me and my law partners have taken many</p> <p>14 depositions in this case, and not one witness has</p> <p>15 testified that they saw or heard anyone moving or</p> <p>16 doing anything inside the apartment before force</p> <p>17 was used to enter it.</p> <p>18 So would you agree with me that that</p> <p>19 factor, the officer's other observations, that</p> <p>20 would not support a shorter amount of time?</p> <p>21 A The -- going off the statements of the</p> <p>22 officers that you had deposed, that they said they</p> <p>23 didn't hear anything or see anything that would</p> <p>24 speed up that six seconds, again, it goes back to</p> <p>25 the preplanning of the actual briefing of the</p>
<p style="text-align: right;">143</p> <p>1 likely to be asleep, like the early hours of the</p> <p>2 morning, some people sleep naked or in a state of</p> <p>3 undress that they wouldn't necessarily want to</p> <p>4 just jump up out of bed and come to the door</p> <p>5 first.</p> <p>6 Does Metro acknowledge that?</p> <p>7 A Again, that would be factored into the</p> <p>8 time of day, yes.</p> <p>9 Q Okay. Is -- do you remember the actual</p> <p>10 facts of the Banks case?</p> <p>11 A That he was in the shower at the time of</p> <p>12 North Las Vegas SWAT serving the search warrant,</p> <p>13 and he believed he didn't have enough reasonable</p> <p>14 time to get out of the shower and answer the door.</p> <p>15 Q Yeah. So -- so that -- that factor is</p> <p>16 literally the factor from Banks, right, that</p> <p>17 police ought to wait long enough for people to get</p> <p>18 decent and come to the door; right?</p> <p>19 A Again, in that case, I think it -- it --</p> <p>20 it alluded to the reasonableness of time to -- to</p> <p>21 announce minus anything -- factors of destruction</p> <p>22 of evidence, possible escape, and any other</p> <p>23 factors that they -- that they come into encounter</p> <p>24 with.</p> <p>25 Q And does Metro acknowledge that the six</p>	<p style="text-align: right;">145</p> <p>1 search warrant was the information that there</p> <p>2 could be occupants in there that were armed with</p> <p>3 firearms.</p> <p>4 And they used the two announcements.</p> <p>5 And, again, we explained the stun stick so they</p> <p>6 didn't give them time to arm themselves or</p> <p>7 barricade or do any other factors.</p> <p>8 Q Is there any period of time in seconds</p> <p>9 that Metro considers, per se, meaning in and of</p> <p>10 itself, not to be a reasonable amount of time to</p> <p>11 wait?</p> <p>12 A Again, it would be -- it would be based</p> <p>13 on the incident in itself and the factors that</p> <p>14 the -- the operators, the ATL, the TL see at the</p> <p>15 time of the service that would factor in, if it</p> <p>16 would need more time than prior briefings or less</p> <p>17 time.</p> <p>18 Q And, you know, the reason why that</p> <p>19 factor is there so that if police go to serve the</p> <p>20 warrant and then, all of a sudden, like, they see</p> <p>21 somebody peeking behind a curtain with a gun and</p> <p>22 they say, like, "Oh, it's police; hide," or, "Oh,</p> <p>23 it's police; jump out the back," then that's --</p> <p>24 that's the type of factor that would encourage a</p> <p>25 shorter amount of time; right?</p>

<p style="text-align: right;">146</p> <p>1 A Shorter amount of time than was briefed,  2 yes.  3 Q Yes.  4 And so, even though there could be later  5 changes to what is considered reasonable, is there  6 some amount in seconds that Metro considers, at  7 least at the planning stage, that officers need to  8 wait at least that amount of time?  9 A Again, there's nothing formally written  10 or within U.S. or state law that -- that mandates  11 a -- a specific time. Again, it's based on the  12 preplanning of the actual search warrant of what  13 they're -- potentially could encounter, based on  14 the investigation, that the ATLS and TLs come up  15 with their plan of how many announcements.  16 And in this case, they gave two  17 announcements, which was pretty much accepted  18 announcements, prior to making any forcible entry  19 or start the process of entry.  20 Q Are you aware of any amount of time that  21 the Ninth Circuit Court of Appeals has itself  22 stated it has never upheld entry in a shorter than  23 that amount of seconds as constitutional?  24 A Ninth Circuit does cite -- in the Banks  25 case, it cites 15 to 20 seconds. That was that</p>	<p style="text-align: right;">148</p> <p>1 agree with that?  2 A Correct. Correct.  3 Q Okay. Does Metro agree that mistakes  4 were made when the warrant was served on the  5 apartment that Mr. Williams was in?  6 MR. ANDERSON: Objection. Form.  7 THE WITNESS: You would have to be  8 more clear as far as "mistakes."  9 At the service from SWAT or the -- or  10 the search warrant itself?  11 BY MR. BREEDEN:  12 Q I'm happy to clarify for you, but -- but  13 I want to ask the question very broadly.  14 A Okay.  15 Q Okay?  16 Does Metro in this litigation admit that  17 there were any failures of training, policy,  18 planning, or execution regarding this warrant?  19 And, if so, what are they?  20 A Well, again, the CIRT -- in reading the  21 CIRT report, there was findings, again, going back  22 to the -- sorry -- the verbiage of the CET  23 contradicted that they said reasonableness of  24 time. That's why it was changed. I know they  25 said that Melanie O'Daniel's approval of the stun</p>
<p style="text-align: right;">147</p> <p>1 case specific. And then there's also cases that  2 less than five seconds is not reasonable.  3 Q Okay. Has any Ninth Circuit case ever  4 held that less than ten seconds was reasonable --  5 MR. ANDERSON: Objection. Form.  6 BY MR. BREEDEN:  7 Q -- as far as you are aware?  8 A Off the -- offhand right now, I know  9 I've read some stuff, but I can't recall the  10 actual case.  11 Q And in Banks, there was reference to a  12 15- to 20-second delay, and Metro would agree that  13 less than 15 to 20 seconds was used in the  14 Williams matter? In fact, the -- six seconds is  15 the figure Metro is giving; correct?  16 MR. ANDERSON: Objection. Form.  17 THE WITNESS: So six seconds was the  18 stun stick entry, and then the entry was after  19 that. So I believe breaking the threshold and  20 entry was after 15 seconds.  21 BY MR. BREEDEN:  22 Q Okay. But -- but let's be clear.  23 Metro understands that the first use of  24 force to enter the apartment was when the back  25 window was broken with the stun stick? Does Metro</p>	<p style="text-align: right;">149</p> <p>1 stick was not in line with policy, given that they  2 believed they couldn't clearly see what was behind  3 that window.  4 There was some talks about there wasn't  5 enough surveillance to ascertain who was actually  6 going to be in that residence, if there was going  7 to be young children or older adults and who was  8 in the residence prior.  9 Q Does --  10 A So things like that.  11 Q Does Metro agree there were failures of  12 surveillance?  13 A They said there should have been more  14 surveillance needed.  15 Q Yeah.  16 Because when this was actually served,  17 Metro had no idea who was actually in the  18 apartment; right?  19 A So the surveillance was conducted, and  20 the surveillance team that conducted the  21 surveillance believed that it was too, I guess --  22 I don't want to use the word "dangerous," but they  23 were compromised believing there was too many  24 lookouts. Believing that this was a dope house  25 for sale, and they had a lot of lookouts, they</p>



150

1 couldn't use physical surveillance. There wasn't  
 2 technology to use based on the -- the layout of  
 3 the residence.  
 4 And, yes, they -- they did not know  
 5 fully who would be in there. There was knowledge  
 6 based on the -- the suspected person at the  
 7 time's, I believe, stepmother that she said that  
 8 he stayed there, but he was never seen on  
 9 surveillance.  
 10 Q Yeah, so one suspect they were looking  
 11 for, he was wearing an ankle monitor, so they knew  
 12 he was not there; right?  
 13 A Correct.  
 14 Q And the other suspect had never actually  
 15 been seen there by surveillance; they just had  
 16 information from his stepmother from some months  
 17 before that he might be at that apartment?  
 18 A That information and then the  
 19 information that he was involved in a shooting in  
 20 the same complex, yes.  
 21 Q But police surveillance never actually  
 22 had eyes on him at that apartment at any time, let  
 23 alone the morning of the shooting; right?  
 24 A Correct.  
 25 Q Okay. And Metro does not dispute the

151

1 findings of the CIRT report, that there were  
 2 failures in surveillance?  
 3 A They noted that there was -- there  
 4 should have been more surveillance done, correct.  
 5 Q Does Metro dispute the findings of the  
 6 CIRT report that the IAPs were improperly handled?  
 7 A No.  
 8 Q Does Metro dispute the findings of the  
 9 CIRT report that there was inadequate training in  
 10 the sense of Sergeant Backman, who had not  
 11 completed basic SWAT training course at the time  
 12 this happened?  
 13 MR. ANDERSON: Objection. Form.  
 14 THE WITNESS: I believe they did state  
 15 that he should have been through a SWAT school,  
 16 but I believe Melanie O'Daniel had offered him  
 17 some other training, and given his background and  
 18 experience, he was in that foreposition.  
 19 BY MR. BREEDEN:  
 20 Q Yeah, he had -- he had somewhat of a  
 21 leading role in this, didn't he? Like, it was his  
 22 job to do the announcements; right?  
 23 A Correct.  
 24 Q And he actually took on a planning role  
 25 as well with Lieutenant O'Daniel, because the

152

1 regular team leader, Sergeant Findley, was on  
 2 vacation; correct?  
 3 A He -- he was -- the initial planning was  
 4 the ATL, and he gets the -- he approves that  
 5 planning, and then he briefs it up to  
 6 Lieutenant O'Daniel, correct.  
 7 Q Because Sergeant Backman had not even  
 8 completed the basic SWAT training course, he  
 9 wouldn't have even seen Exhibit 2, would he?  
 10 MR. ANDERSON: Objection. Form.  
 11 THE WITNESS: No, part of the -- part  
 12 of his role as a team leader, he should be aware  
 13 of all section policies, even day one.  
 14 BY MR. BREEDEN:  
 15 Q Well, do you know for a fact that he had  
 16 seen that, or are you just speculating?  
 17 A I don't know for a fact, but I'm just  
 18 saying, based on any position that you take to --  
 19 for a new position, you should know what you're  
 20 entailing, and that's part -- part of that is  
 21 reading the section manual.  
 22 Q But we know, because he hadn't completed  
 23 the training, he wouldn't have seen any of the  
 24 PowerPoints used during the basic training and he  
 25 wouldn't have received any of the verbal

153

1 instruction given during the basic training on  
 2 knock and announce; true?  
 3 A Again, I think Melanie O'Daniel stated  
 4 that he had some training, some one-on-one  
 5 training, so I don't know what that entailed, if  
 6 he had to see some PowerPoints or he had to read  
 7 the manual. But I know she alluded to that he did  
 8 have some one-on-one training. I believe it was  
 9 40 hours. But you are correct, he did not go  
 10 through the full SWAT school, the 120 that was  
 11 offered at that time.  
 12 Q And CIRT had found that  
 13 Lieutenant O'Daniel's approval of the stun stick  
 14 and the charge that was in the stun stick was not  
 15 to department policy.  
 16 Does Metro dispute that in this  
 17 litigation?  
 18 A No.  
 19 Q Okay. CIRT had found that use of the  
 20 CET entry was contrary to knock and announce  
 21 principles.  
 22 Does Metro dispute that conclusion in  
 23 this litigation?  
 24 A I think the findings were they did not  
 25 believe it was within the SWAT policy to use the



<p style="text-align: right;">154</p> <p>1 CET, correct.</p> <p>2 Q Okay. And ultimately, related to that,</p> <p>3 CIRT concluded that officers had not waited a</p> <p>4 reasonable amount of time when conducting the --</p> <p>5 the knock and announce portion of the warrant</p> <p>6 service.</p> <p>7 Does Metro dispute that in this</p> <p>8 litigation?</p> <p>9 A I believe that came from the legal</p> <p>10 consultant and was ultimately put into the report,</p> <p>11 so, yes, they -- they took that report.</p> <p>12 Q Okay. Metro, in this litigation, is not</p> <p>13 disputing that?</p> <p>14 A No.</p> <p>15 Q Is the SWAT manual updated or revised</p> <p>16 annually?</p> <p>17 A I can't say, prior to the -- me taking</p> <p>18 over, if it was yearly. The department does want</p> <p>19 you to review the section manual yearly to see if</p> <p>20 there needs to be any changes. There has been,</p> <p>21 since I've been there, two versions of it, and as</p> <p>22 we go and implement new -- new pieces of</p> <p>23 equipment, new tactics, we add in those policies.</p> <p>24 Q Okay. So the version in effect at the</p> <p>25 time of the search warrant in this case was the</p>	<p style="text-align: right;">156</p> <p>1 Dealing with tactics, that was changed to no</p> <p>2 knock. And then we added the breach and hold into</p> <p>3 the manual.</p> <p>4 Q And so have there been any changes to</p> <p>5 knock and announce principles or how knock and</p> <p>6 announce is supposed to be performed?</p> <p>7 A Still we abide by the laws that govern</p> <p>8 search and -- search warrants and knock and</p> <p>9 announce, but there's no specific -- we didn't add</p> <p>10 any specific time that needed to be implemented</p> <p>11 prior to entry.</p> <p>12 Q Did you read Sergeant Findley's</p> <p>13 deposition?</p> <p>14 A I did not.</p> <p>15 Q Dr. -- I'm sorry, Sergeant Findley seems</p> <p>16 to reference that at one point in time, there was</p> <p>17 something in writing that said at least ten</p> <p>18 seconds should be allowed for a reasonable amount</p> <p>19 of time to wait, and that that was changed at some</p> <p>20 point.</p> <p>21 Do you have any information about when</p> <p>22 that changed and who changed it?</p> <p>23 A I do not have any recollection of it</p> <p>24 being in there that I read, but I don't -- I</p> <p>25 wouldn't be able to answer that if it was in there</p>
<p style="text-align: right;">155</p> <p>1 2021 version?</p> <p>2 A Yes, it would be the '21 version.</p> <p>3 Q And so what are the later versions? Is</p> <p>4 it 2022 and 2023?</p> <p>5 A I believe '22 it changed. And then '24</p> <p>6 was a change, and then we -- it twice changed in</p> <p>7 '24. It changed in January and then again in May.</p> <p>8 Q Okay. And would they refer to that,</p> <p>9 then, as version, like, 1/2024 and version 5/2024?</p> <p>10 How is that distinguished?</p> <p>11 A So they would refer to it as the month</p> <p>12 that it was changed. So right now we're 5/24.</p> <p>13 Q Okay. And so how are the -- the later</p> <p>14 versions of the SWAT manual different? I know we</p> <p>15 spoke about the change regarding CET, and that's</p> <p>16 now reserved for no-knock warrants.</p> <p>17 What were the other changes?</p> <p>18 A We really did a revamp, because, again,</p> <p>19 when -- in March or so of '23, we had a new</p> <p>20 director come in, and he wanted to overhaul the</p> <p>21 whole manual. So we went page by page. We took a</p> <p>22 lot of stuff that didn't need to be in there out.</p> <p>23 I would have to, I mean, go -- it was a</p> <p>24 full change. Nothing in particular, other than</p> <p>25 the CET language that we're dealing with this.</p>	<p style="text-align: right;">157</p> <p>1 and who changed it.</p> <p>2 Q So do you have any information as to why</p> <p>3 it was changed?</p> <p>4 A No, sir.</p> <p>5 Q Do you have any information as to</p> <p>6 whether it was changed to allow for longer or</p> <p>7 shorter waiting times?</p> <p>8 A I -- I couldn't under -- I don't know</p> <p>9 when it was changed or if it was in there, so I</p> <p>10 couldn't answer that.</p> <p>11 Q Okay. Have any of the department's</p> <p>12 policies on what constitutes a high-risk warrant</p> <p>13 changed since the time this warrant was served?</p> <p>14 A No.</p> <p>15 Q Since the time this warrant has served,</p> <p>16 has Metro made any effort to relay the information</p> <p>17 from Nevada POST to SWAT, which suggests that one</p> <p>18 minute is a safe period to wait in most cases?</p> <p>19 A Again, we -- we know that that is in</p> <p>20 there. We don't know why it's in there or who put</p> <p>21 it in there, but, again, we go back off of</p> <p>22 reasonableness of U.S. Constitution and state law.</p> <p>23 Q What position does Metro take in this</p> <p>24 litigation as to the effect that the NFDD</p> <p>25 deployments had on Mr. Williams' ability to see</p>

158

1 and hear officers?

2 MR. ANDERSON: Objection. Form.

3 Go ahead.

4 THE WITNESS: I can only answer to

5 what the intended use of an NFDD when it's

6 inserted into a structure, what we intend it to

7 cause, and that's to disorientate them and to take

8 his attention away from what we're actually doing.

9 I don't know -- I could not say if that was

10 actually the cause that happened to Mr. Williams.

11 BY MR. BREEDEN:

12 Q And I think you stated earlier, one of

13 the reasons you deploy an NFDD is to confuse

14 people inside the residence; is that true?

15 A To stun and disorientate them, yes. And

16 that's in the sense to take his attention away

17 from the breach at the front door.

18 Q Do you recall specifically using the

19 word "confuse" earlier in your deposition?

20 A I don't, but confusion is part of the

21 stun and disorientate them.

22 Q Okay. We have retained an expert in

23 this case who has testified that the NFDDs would

24 have impaired Mr. Williams' ability to see

25 officers in his surroundings.

159

1 Does -- does Metro dispute that?

2 A At the time that the stun stick was

3 deployed, there was no officers in there for him

4 to see, so I -- I don't know what the -- I

5 couldn't answer if he was -- could not see

6 officers from the outside where his positioning

7 was.

8 Q And the same expert is prepared to

9 testify that the NFDDs impaired Mr. Williams'

10 ability to hear officers.

11 Does Metro dispute that?

12 A No. Again, that's the intention of the

13 distract, is to momentarily debilitate his vision

14 and hearing.

15 Q In fact, at least as the officers are --

16 are entering, you know, they're saying things like

17 "Police, search warrant," but that's at the same

18 time the NFDDs are going off; right?

19 A That's the nine bang at the -- on the

20 outside on the four side -- or the two side.

21 Q What is Metro's position in this

22 litigation on whether Mr. Williams was impaired by

23 any substance at the time of his death?

24 A I believe the CIRT report and his

25 toxicology stated that he had marijuana in his

160

1 system that was consistent with smoking it

2 recently.

3 Q And recreational marijuana is legal;

4 correct?

5 A Correct.

6 Q In your experience as a police officer,

7 is it unusual to find people who have smoked

8 marijuana recently?

9 A To find them -- like, encounter people

10 that had smoked marijuana?

11 Q Sure.

12 A No, it wouldn't be unreasonable.

13 Q You could probably walk down on Fremont

14 Street and smell marijuana on half the people;

15 right?

16 A Correct.

17 Q So I say that jokingly, but do you

18 recall, like, the exact nanograms per deciliter

19 that -- of THC in his system that was tested?

20 A No. I would have to refer back to the

21 CIRT report, the toxicology.

22 Q Okay. Did you -- did you ever review

23 that section of the CIRT report, the toxicology?

24 A It was in the -- it was in the CIRT

25 report. I remember seeing it.

161

1 Q Did -- did you find the levels to be

2 highly unusual?

3 A I don't know levels of intoxication

4 based on nanograms. I'm sorry.

5 Q Okay. And you agree there was no

6 alcohol involved.

7 A I don't recall seeing alcohol in --

8 Q Okay.

9 A -- in the report.

10 Q Is Metro going to take the position that

11 Mr. Williams' marijuana consumption caused or

12 contributed to this incident at all?

13 A I don't think that contributed to him

14 firing on officers.

15 Q Okay. Are you -- is Metro going to take

16 the position that that caused or contributed to

17 his inability to perceive and -- and react to what

18 was going on around him?

19 MR. ANDERSON: Objection. Form.

20 THE WITNESS: I don't -- it was never

21 in the report that that would keep him from going

22 to the door or submitting or giving him a -- a

23 clear mind frame.

24 BY MR. BREEDEN:

25 Q Okay. I have seen two alternate



<p style="text-align: right;">162</p> <p>1 versions of the SWAT uniform and how lettering  2 appears on the uniform. One is with bright gold  3 lettering that says SWAT on it, and the other is  4 what I would call a blackout uniform that the SWAT  5 lettering is in black and therefore is much more  6 difficult to see, especially from a distance.  7 In this case, the officers were wearing  8 what I would call the -- the blackout uniforms.  9 Why was that done?  10 A We call that the subdued patches. And,  11 again, it's just a tactical advantage. When we're  12 doing hostage rescues and we have to stealth in or  13 we're doing search warrants where we have to walk  14 up to the front door, we want -- we don't want to  15 be backlit, because those other reflective patches  16 may compromise our positions with people on the  17 four side or the two side or the three side and on  18 the approach. But it's just mainly for a tactical  19 advantage reason.  20 Q Okay. It's to assist in the CET and the  21 surprise and overwhelming response; right?  22 A It's in totality of just really the  23 tactical advantage of giving us the -- not being  24 seen when we're trying to be stealthy.  25 Q Well, under knock and announce</p>	<p style="text-align: right;">164</p> <p>1 presence, it's the lights, it's the verbalization,  2 NFDDs. So it's in totality, so it's not one  3 factor that would have recognized us as police  4 officers.  5 Q Would you agree that when officers  6 actually breached the front door of the apartment  7 and physically went into the apartment, that many  8 of them had lights on the end of their weapons?  9 A I believe most of them should be  10 carrying lights. I just don't recall how many  11 had -- had them on, but there was -- there was  12 several of them on.  13 Q It's essentially like having a little  14 flashlight on the tip of your firearm; right?  15 A Correct.  16 Q Okay. How many of those do you think  17 were shining into Mr. Williams' face as police  18 came through?  19 A Again, I don't recall the number, but  20 there was flashlights.  21 Q Multiple lights; right?  22 A Correct.  23 Q Okay. Do you believe those would have  24 impaired Mr. Williams' ability to see the  25 officers?</p>
<p style="text-align: right;">163</p> <p>1 principles, part of it is that the person inside  2 the residence has to be afforded an opportunity to  3 come to the door and reasonably ascertain that it  4 is officers at the door with a warrant and -- and  5 provide them entry.  6 Don't you think that that process is  7 more delayed with the blackout or subdued  8 uniforms, as opposed to the bright gold lettering?  9 A I don't, because the numerous search  10 warrants we have done that we have been able to  11 announce and get people to come to the door  12 doesn't diminish their ability to recognize the  13 verbal announcements that we are the police and we  14 have a search warrant.  15 Q Well, that assumes that the person heard  16 and understood those instructions; right?  17 A Yes.  18 Q What if it was a deaf person?  19 A They wouldn't have been able to hear us.  20 Q And what if it was a person who had  21 their hearing impaired like through NFDDs?  22 A But verbal -- I mean, the subdued  23 patches and the patches that the SWAT officers  24 wear is not -- is not the only thing that  25 announces our presence. Again, it's the visual</p>	<p style="text-align: right;">165</p> <p>1 MR. ANDERSON: Objection. Form.  2 THE WITNESS: Again, I think with the  3 number of bodies we had in there and the number of  4 announcements that were given prior to making  5 entry and during entry, that's our announcements  6 for authority and purpose.  7 BY MR. BREEDEN:  8 Q But at the time the shooting occurred,  9 he was essentially staring into multiple  10 flashlights on his face; right?  11 MR. ANDERSON: Objection. Form.  12 THE WITNESS: I couldn't say what he  13 was staring at at the time that he fired the  14 weapon at the officers.  15 BY MR. BREEDEN:  16 Q Does Metro think it -- the most likely  17 scenario is that when the announcements were  18 given, Mr. Williams was asleep?  19 MR. ANDERSON: Objection. Form.  20 THE WITNESS: Again, based on the  21 reports, there's no way to know if he was asleep  22 prior to the announcements. All we can say is he  23 was awake when officers made entry, because he  24 fired on officers.  25</p>

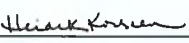
<p style="text-align: right;">166</p> <p>1 BY MR. BREEDEN:</p> <p>2 Q Isn't the reason why 5:00 a.m. was</p> <p>3 chosen for this service of this warrant was</p> <p>4 because it was a time he would most likely be</p> <p>5 asleep, or any occupants inside?</p> <p>6 A There's -- there's several factors that</p> <p>7 go into an early morning hit. Being a</p> <p>8 multi-family apartment complex, the closeness to</p> <p>9 Nellis Boulevard, and AMPM, we want to reduce the</p> <p>10 risk to citizens. But also, we don't want them</p> <p>11 staring out the windows at us either as we're</p> <p>12 making our approach.</p> <p>13 Q Okay. Are you aware that a question</p> <p>14 similar to that was asked at a press conference of</p> <p>15 the public relations officer for Metro, and he</p> <p>16 said that these are served in the early hours of</p> <p>17 the morning when there's -- people are likely to</p> <p>18 be asleep or not active inside?</p> <p>19 A I don't recall that -- listening to that</p> <p>20 press conference.</p> <p>21 Q Do you agree that that's a factor that</p> <p>22 Metro considers when they assess what time of day</p> <p>23 they should serve these warrants?</p> <p>24 A I would agree.</p> <p>25 Q Is that official policy by Metro?</p>	<p style="text-align: right;">168</p> <p>1 yes. No, nothing was found.</p> <p>2 Q And I referenced it earlier, and I'm not</p> <p>3 sure if you -- you knew it or not, but, in fact,</p> <p>4 the -- the two suspects that were considered at</p> <p>5 that time that might be at the residence, Metro</p> <p>6 has now arrested individuals completely</p> <p>7 unassociated with them for the crime.</p> <p>8 Were you aware of that?</p> <p>9 A I'm aware that the two individuals that</p> <p>10 they identified as the persons of interest that</p> <p>11 were given to -- by the stepmother that may be</p> <p>12 involved, based on surveillance video, were not</p> <p>13 the two individuals that were arrested.</p> <p>14 Q Have you seen the surveillance video?</p> <p>15 A I've seen pictures of it.</p> <p>16 Q It's pretty -- pretty grainy and -- and</p> <p>17 difficult to make out any particular features.</p> <p>18 Wouldn't you agree?</p> <p>19 A If it wasn't my kid, it would be hard.</p> <p>20 Q I'm going to provide you what we'll mark</p> <p>21 as Exhibit 4.</p> <p>22 (Exhibit 4 was identified.)</p> <p>23 THE WITNESS: Thank you.</p> <p>24 BY MR. BREEDEN:</p> <p>25 Q Exhibit 4 are several pages from the</p>
<p style="text-align: right;">167</p> <p>1 A No.</p> <p>2 Q So what is Metro's policy as to why it</p> <p>3 would serve a warrant at 5:00 a.m. versus serving</p> <p>4 it at noon?</p> <p>5 A Again, it goes -- based -- it's -- it's</p> <p>6 really the safety of the community when you're</p> <p>7 serving a warrant different times of the day,</p> <p>8 whether you're going to do it late at night, early</p> <p>9 in the morning, or during the day. We want to try</p> <p>10 to lessen the citizens that are walking around,</p> <p>11 kids that are going to school, and -- and also a</p> <p>12 factor of the cover of darkness to give us a</p> <p>13 better stealth approach to the search warrant.</p> <p>14 So there's many factors other than just</p> <p>15 believing that he may be asleep or not as alert as</p> <p>16 the middle of the day. Again, it goes to factors</p> <p>17 to the occupants, what kind of structure it is?</p> <p>18 Are they -- are they a late-at-night dope sales?</p> <p>19 Is it we know that they work a 9:00 to 5:00? So</p> <p>20 all of those factors go into the determination of</p> <p>21 when we want to serve the search warrant.</p> <p>22 Q Ultimately, no evidence that was sought</p> <p>23 in the search warrant was found inside the</p> <p>24 apartment; correct?</p> <p>25 A Reading the reports, I don't believe so,</p>	<p style="text-align: right;">169</p> <p>1 CIRT report. It's just an excerpt. They have</p> <p>2 been Bates labeled LVMPD4440 through 4443.</p> <p>3 These are excerpts from the CIRT report</p> <p>4 that we've been talking about during your</p> <p>5 deposition, and basically I -- I just want you to</p> <p>6 take a few seconds to review them and let me know</p> <p>7 if Metro, in this litigation, is taking any</p> <p>8 position that the findings and conclusions on</p> <p>9 these pages are not correct.</p> <p>10 A Do you want me to start at the general</p> <p>11 SWAT approach at the very top?</p> <p>12 Q Yes.</p> <p>13 A Okay. Do you want me to read the whole</p> <p>14 thing?</p> <p>15 Q Well, I want you to -- to read it at</p> <p>16 least to the extent that you're comfortable</p> <p>17 testifying that Metro does not dispute any of the</p> <p>18 findings on those pages.</p> <p>19 And I don't mean to interrupt you, but</p> <p>20 then my question would be if -- if Metro intends</p> <p>21 to dispute any of these findings, I need to know</p> <p>22 what they are and why they are disputing them.</p> <p>23 A Okay.</p> <p>24 So this was the CIRT findings based on</p> <p>25 our department policy, so --</p>



170

1 Q So, in this litigation, is Metro  
2 disputing these findings?  
3 A That they're -- no, on the findings of  
4 the policy violations.  
5 MR. BREEDEN: Okay. I think those are  
6 all of my questions.  
7 Do you have anything, Mr. Anderson?  
8 MR. ANDERSON: I don't.  
9 THE VIDEOGRAPHER: Okay. Just  
10 briefly, Mr. Anderson, would you like a copy of  
11 the video and transcript?  
12 MR. ANDERSON: I do want a copy of the  
13 transcript. I don't need a copy of the video at  
14 this time.  
15 MR. BREEDEN: Thank you.  
16 MR. ANDERSON: Unless you want one to  
17 remember this day.  
18 THE WITNESS: No.  
19 THE VIDEOGRAPHER: This concludes the  
20 deposition of Lieutenant Adrian Beas as a 30(b)(6)  
21 designee for Las Vegas Metropolitan Police  
22 Department consisting of four clips. The time is  
23 1:53 p.m. We are off the record.  
24 (The deposition concluded at 1:53 p.m.)  
25 \*\*\*\*\*

171

1 CERTIFICATE OF COURT REPORTER  
2  
3 STATE OF NEVADA )  
4 ) ss:  
5 COUNTY OF CLARK )  
6  
7 I, Heidi K. Konsten, Certified Court Reporter  
8 licensed by the State of Nevada, do hereby certify  
9 that I reported the deposition of ADRIAN BEAS,  
10 commencing on March 28, 2025, at 9:04 a.m.  
11 Prior to being deposed, the witness was duly  
12 sworn by me to testify to the truth. I thereafter  
13 transcribed my said stenographic notes via  
14 computer-aided transcription into written form,  
15 and that the transcript is a complete, true and  
16 accurate transcription and that a request was not  
17 made for a review of the transcript.  
18 I further certify that I am not a relative,  
19 employee or independent contractor of counsel or  
20 any party involved in the proceeding, nor a person  
21 financially interested in the proceeding, nor do I  
22 have any other relationship that may reasonably  
23 cause my impartiality to be questioned.  
24 IN WITNESS WHEREOF, I have set my hand in my  
25 office in the County of Clark, State of Nevada,  
this April 1, 2025.  
  
Heidi K. Konsten, RPR, CCR No. 845

172

1 DECLARATION OF DEPONENT  
2 I, ADRIAN BEAS, deponent herein, do  
3 hereby declare under penalty of perjury that I have  
4 read the within and foregoing transcription of my  
5 testimony taken on March 28, 2025, at Las Vegas,  
6 Nevada, and that the same is a true record of the  
7 testimony given by me at the time and place  
8 hereinabove set forth, with the following  
9 exceptions:  
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11 ERRATA SHEET  
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1 ERRATA SHEET  
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